INDEX TO VOLUME III.

RESPONDENT'S TESTIMONY.

Witnesses:	Direct Exam. Page	Cross-Exam. Page	Re-Dir. Exam. Page	Re-Cr.-Exam. Page	Re-Re-Dir. Exam. Page	Re-Re-Cross-Exam. Page
H. E. Brumbaugh	1807	1811	1820			
Edward H. Johnson	1821	1842	1870	1877		
Roscoe Peacock	1879	1897	1908	1911		
Ernest M. Smith	1912	1917	1921			
Fred W. Farrar	1921	1925	1930			
Irving V. Cobleigh	1930	1933				
Maxwell Hopkins	1936	1938				
Charles E. Luther	1942	1946	1951	1952		
George Q. Downes, Jr.	1953	1957	1960	1960		
Harry Peck	1961	1964	1969			
Roy M. Woodstock	1969	1973				
Henry P. Crossley	1978	1982	1989			
Norman A. Chassin	1991	1994				
J. M. Wehner	1999	2002	2020	2023		
W. Worthington, Jr.	2025	2027	2044	2050		
T. F. Cooke	2052	2054	2078			
C. S. Crummett	2082	2088	2089			
Don C. Seitz	2095	2098	2099			
C. C. Robinson	2100	2104	2106			
Patrick J. Kelly (recalled)		2107	2124	2127	2127	2128
R. L. Flanders	2129	2145				
F. W. Baker	2158	2160	2176	2179	2179	
John H. Murphy	2185	2188	2190			
John L. Thomas	2190	2194	2202	2203		
William Smith	2203	2208	2215			
Walter Lawrence Harris	2215	2216				
William Smith (recalled)		2217				
L. H. Kimbrough	2219	2222				
Raymond B. Pearce	2223	2224				
C. B. Guttridge	2225	2227				
Fred H. Baker	2228	2232	2234	2234		
W. T. Forrester	2235	2238	2245			
B. L. Sronce	2246	2248				
Charles F. Kramer	2249	2251				
L. F. Dyson	2253	2255	2257	2257		
Roscoe Peacock (recalled)	2257	2261	2262			
E. W. Guthrie	2263	2266	2294	2295		
John W. Weiler	2300	2303	2323			
W. D. Bankston	2323	2325	2338			
E. M. Loveland	2338	2339				
Olin B. Linn	2344	2348	2351			
E. L. Scott	2351	2354	2361			

INDEX TO VOLUME III.—Continued.

Witnesses:	Direct Exam. Page	Cross-Exam. Page	Re-Dir. Exam. Page	Re-Cr.-Exam. Page	Re-Re-Dir. Exam. Page	Re-Re-Cross Exam. Page
James T. Ballard	2361	2363	2364			
James H. Nelson	2364	2366	2368			
J. L. Tenenbaum	2370	2372	2376			
Baldwin Allen	2377	2378	2379			
Murphy M. Williams	2380	2381	2381			
George E. Reeves	2382	2383				
Shaw Johnson	2385	2386	2387			
E. M. Connor, Jr.	2387	2390	2392	2393		
C. R. Reagan	2394	2395				
Charles Lonsberg	2397	2400	2402			
Charles J. Rossy	2403	2406	2409			
F. H. Duncan	2410	2413	2420	2421		
James A. Mathews	2421	2426	2429	2431		
Harold Hough	2434	2435				
Clint McDade	2438	2441				
R. A. Dunlap	2448	2450	2467			
F. J. Stuart	2468	2470	2478			
L. G. Griffis	2478	2480	2504			
B. M. Awalt	2488	2490				
John H. Greene	2494	2495	2502			
J. T. Toler	2507	2512				
P. E. Schmalz	2513	2514	2516			
J. T. Toler (recalled)		2517				
Ferdinand J. Syvertson	2519	2525	2530			
Edgar P. Treloar	2532	2535	2538			
A. M. Beresford	2538	2540	2541			
R. P. Flanders	2545	2548	2554	2555		
William E. McNerney	2557	2559	2562			
M. J. Brennan	2562	2569	2578	2578		
A. C. Simons	2578	2580	2582			
Henry C. Sieghold	2582	2586	2592	2593		
Miss Margaret Goodrich	2594	2599	2603			
Theodora Moorehead	2604	2606				
Eric Nelson	2608	2625	2636	2637		
Francis O'Conner	2639	2641	2644	2645		
C. T. Sheldon	2646	2647	2648			

INDEX TO EXHIBITS VOLUME III.

		Page
Respondent's Exhibit No.	12	1828
" " "	13	2183
" " "	14	2183
" " "	15	2183
" " "	16	2184
" " "	17	2184
" " "	18	2197
" " "	19	2206
" " "	20	2239
" " "	21	2241
" " "	22	2241
" " "	23	2243
" " "	24	2244
" " "	25	2256
" " "	26	2259
" " "	27, 28, 29 (Not Printed).	
" " "	30	2565
" " "	31	2612
" " "	32	2622
" " "	33	2624
Commission's Exhibit No.	198	2093
" " "	199a, 199b and 199c	2357
" " "	199	2482
" " "	200	2497

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission,
v.
The Curtis Publishing Company.
} Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Monday, April 22, 1918.

The hearings in the above-entitled matter were resumed at 10.30 o'clock A. M., pursuant to adjournment.

Before: Examiner CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission; and
JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

EXAMINER MOORE: Call your first witness.

H. E. BRUMBAUGH was called as a witness on behalf of the respondents, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Brumbaugh, by whom are you employed?
A. Curtis Publishing Company.
Q. In what capacity?
A. As superintendent of agencies.
Q. Where is your district?
A. Central Pennsylvania.
Q. How many cities and towns do you cover?
A. Forty, but eight of them are in New York State.
Q. Does that mean that you cover district agents?

A. Yes, sir.

Q. One in every town?

A. Yes.

Q. How long have you been located there?

A. About a year and a half.

Q. And have you been in all of these towns?

A. Every one.

Q. You know all of the agents?

A. I do.

Q. Personally?

A. Yes, sir.

Q. Have you recently, in the last three or four months, at the request of the Curtis publications, made inquiry in these towns as to how many wholesalers there were there?

A. Yes, sir.

Q. And to get other information as you were directed; is that correct?

A. Yes, sir.

Q. And did you make written reports to the Curtis Publishing Company?

A. I did not make the written report on every one of the forty towns; on about thirty of them in my territory. Mr. Baker took care of some.

Q. What Baker is that?

A. One of our superintendents.

Q. He is here?

A. Yes, sir.

Q. As I understand, he made this investigation in a part of your territory?

A. Yes, sir.

Q. Why was that?

A. Because he got through in his territory before I got through in mine.

Q. We will now confine ourselves to the thirty that you visited.

A. All right.

Q. In those thirty towns, in how many of them was there only one wholesaler?

A. About half of them.

Q. I did not ask you what towns. Will you give a list of some of them, so as to give us a general idea.

EXAMINER MOORE: The largest cities.

A. Where there is only one wholesaler?

By MR. MILBURN:

Q. No; just give us all of the territory you cover.

A. Ithaca, New York.

MR. SPIESS: What is the question?

MR. MILBURN: Generally to the largest towns that he visited, that he covers in his district.

THE WITNESS: Ithaca, New York; Altoona, Pennsylvania; Greensburg, Pennsylvania; Sunbury, Pennsylvania; Shamokin, Pennsylvania; Harrisburg, Pennsylvania.

By MR. DALY:

Q. Is that all of the large ones?

A. They are the largest—include the largest. Johnstown, Pennsylvania. They are the important towns.

Q. Williamsport?

A. Yes; Williamsport, Pennsylvania.

By EXAMINER MOORE:

Q. Allentown?

A. No, sir.

By MR. DALY:

Q. I do not want to suggest. If you would give me an idea of the territory—does he operate anywhere outside of Pennsylvania except in New York?

A. No, sir.

Q. Your work is all in the State of Pennsylvania.

A. With the exceptions I mentioned in New York State; yes, sir.

By Mr. Milburn:

Q. Did you make investigations in these towns you have mentioned?

A. Yes, sir.

Q. You were there yourself?

A. Yes, sir.

Q. What do you do in making investigations?

A. I found out how many wholesalers that I could find in these towns?

Q. What did you do?

A. I went to the retailers and I found out how they got their copies of certain publications—all of their publications. I verified what they said by going to see the people who they said were the wholesalers.

Q. And interviewed your own district agents; is that correct?

A. Yes, sir.

Q. And prior to making this special investigation, you had been around your district from time to time, had you not?

A. Yes, sir.

Q. In about half of the thirty there was only one wholesaler?

A. Yes, sir.

Q. You mean by that your district agent was the only wholesaler; was that correct?

A. Yes, sir.

Q. In those instances where your district agent was the only wholesaler, in how many instances did that man wholesale only Curtis publications?

A. Would you repeat that question?

Q. You say in fifteen towns there was only one wholesaler. Am I correct about that?

A. Yes.

Q. In those fifteen towns, what does that only wholesaler handle?

A. With the exception of about five towns he only handles Curtis publications.

Q. In the other five regular magazine wholesalers?

A. Yes, sir.

Q. Do you know how many of these fifteen handle Curtis publications?

A. Every one.

Q. How many of these thirty district agents are boys?

A. Nine.

Q. From what walks of life are the rest drawn?

A. Two are druggists; some are wholesalers of newspapers, and others are simply wholesalers.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, how many of those that you testified about handle newspapers as well as your publications?

A. I can't speak of the forty towns in that respect; you mean of the thirty towns or the forty?

Q. Suppose we confine ourselves to the thirty towns that you visited.

A. About ten.

Q. Take the forty towns that you visited; you know about it, don't you?

A. Yes, sir.

Q. There are how many?

A. Fifteen.

Q. Now, in what towns are those?

MR. MILBURN: Fifteen what?

MR. DALY: Fifteen that handle newspapers as well as Curtis publications.

THE WITNESS: Do you mean to enumerate them?

By Mr. Daly:

Q. Are they in the towns enumerated here?

A. Harrisburg.

Q. Run through the towns where they handle newspapers.

A. Altoona, Johnstown, Latrobe, Dubois, Warren, Corning, New York; Elmira, New York.

By Mr. Spiess:

Q. How about Greensburg?

A. No; Uniontown, Pennsylvania; Jeannette, Pennsylvania.

By Mr. Daly:

Q. Now, then, there are some of these wholesalers that handle your publications, and newspapers and magazines, aren't there?

A. Yes, sir.

Q. In some of these towns—will you name some of those towns?

A. Johnstown, Altoona, Dubois.

Q. Harrisburg?

A. Yes.

Q. Is that all?

A. I am not sure.

Q. Well, you made the investigation, did you not?

A. Yes, sir.

Mr. Daly: Have we his report there?

Mr. Milburn: Any particular towns? There is a report on every one. Which ones do you want?

Mr. Daly: I want these towns he mentioned, Altoona, Greensburg, Sunbury, Shamokin, Johnstown, Williamsport.

The Witness: I did not say that in Williamsport he handled our magazines and other magazines and newspapers.

By Mr. Daly:

Q. He handles newspapers there, does he?

A. No, sir; I did not say that.

Q. What does he handle?

A. He handles our publications only in Williamsport.

Q. Now, do any of these wholesalers that you have talked about handle only your publications and magazines?

A. Not one.

Q. In Johnstown, C. F. Pollock is your agent and he handles the "Public Ledger," "Pittsburgh Press," "New York Times"; he also handles the Hearst group, the Curtis publications and "Literary Digest"; that is correct, is it not?

A. Yes, sir.

Q. Can you tell what equipment he has for handling these papers? Is he a large wholesaler there?

A. He is.

Q. How does he get his papers out to his customers, do you know?

A. From my last knowledge of his delivery system, he had a horse and wagon.

Q. He covers all of the retailers, does he not?

A. He does.

Q. Now, Fred Friedman has the "Pictorial Review." He handles nothing else, does he?

A. Not to my knowledge.

Q. Do you know how long Friedman has been in business there?

A. He is not in business in Johnstown—Friedman.

Q. What does he do?

A. He works for Pollock.

Q. In what way, then, do you mean that he works for Pollock?

A. He is a salaried employe of Pollock. He is a boy and works in Pollock's store.

Q. And he handles the "Pictorial Review"?

A. He does.

Q. Does Pollock know he handles it, do you know?

A. He does.

Q. And Pollock is the only wholesale dealer there, is he not, in that city?

A. Yes, sir; that is, excepting Friedman.

Q. How big is Johnstown?

A. Sixty-five thousand, approximately.

Q. Now, in Altoona—how big a city is that?

A. About 60,000.

Q. Harris is your agent, is he not?

A. Yes, sir.

Q. He handles the "Philadelphia Public Ledger," the "Pittsburgh Press," "New York World," Curtis publications, "Collier's," "Literary Digest" and the Warner group; that is correct, is it not?

A. Yes, sir.

Q. Does he handle "Pictorial Review"?

A. He does not.

Q. He is your agent, under contract?

A. He is.

Q. Now, he is really the biggest agent there, is he not—the biggest dealer?

A. You mean newspapers or magazines?

Q. Well, he is handling all kinds of publications—he is the ony man who handles publications largely, is he not?

A. No, sir.

Q. Who is the other one?

A. Mr. Buchanan.

Q. He handles the "New York American" and the Hearst group?

A. Yes, sir; and handles the "Pictorial Review."

Q. Do you know how long he has been handling it?

A. Not exactly. I do not think over four months.

Q. About four months?

A. Yes, sir.

Q. Who handled it before he did?

A. I do not know.

Q. Do you know whether Harris ever did?

A. I am almost positive he never did.

Q. Does Buchanan handle "Every Week"?

A. I do not think so.

Q. The "New York American" and the Hearst group are all the same, are they not?

A. Yes, sir.

Q. How large a city is Harrisburg?

A. About 85,000.

Q. Now, the Harrisburg News Agency is the large agency there?

A. Large newspaper wholesale agency.

Q. They handle the "Ledger," "New York Times," the "Press," the Curtis publications, the Hearst group and "Literary Digest"—do they handle "Collier's"?

A. I think they do.

Q. Now, according to your report, Mr. Koplovitz handles the "Review" and Crowell publications, also the "Ledger" and the "Harrisburg Evening News-Telegraph" and "Patriot." Is Koplovitz in the employ of the Harrisburg News Agency?

A. I do not think so.

Q. You do not know that—are you sure about that?

A. I would say I am sure he is not an employee of Prinzer.

Q. How long has Koplovitz been handling the "Review" and the Crowell publications?

A. I know he was handling the Crowell publications as far back as January, 1917.

Q. How long about the "Review"—do you know about that?

A. I am not positive.

Q. Who is the large distributor of magazines in that city?

A. There are two: Koplovitz is the large distributor of magazines in that city.

Q. He handles the Crowell group and the "Pictorial Review"—that is all, according to your report?

A. Yes, sir.

Q. And the Harrisburg News Company handles the "Digest," "Collier's," Hearst group and your publications?

A. Yes, sir.

Q. In Dubois, Joseph Matthew is your agent.

A. Yes, sir.

Q. He handles the "Ledger," "Pittsburgh Gazette-Times," your magazines and "Cosmopolitan," and he is the only dealer there, is he not?

A. Yes, sir.

Q. And he is under contract with your firm?

A. Yes, sir.

Q. How large a city is Dubois?

A. About 15,000.

Q. Now, in Elmira, I notice that Rubin Brothers are your agents, and they handle the "New York Journal," "New York World," the "Sun," the Curtis publications, the Hearst group, "Pictorial Review," "Literary Digest"—and I want to ask you how long he has been handling the "Pictorial Review"—do you know?

A. Indeed I do not know. That report was correct when it was made, but it is different now.

Q. This report was last month, March. Do you know he was handling the "Pictorial Review"——

A. Indeed I do not know. I might say that he is not our district agent any longer.

Q. He is not your agent any longer?

A. No, sir.

Q. Who is your agent now?

A. Ashur Golos.

Q. He is a new man?

A. Yes, sir.

Q. When did he become your agent?

A. I appointed him two weeks ago.

Q. And does this new agent handle anything else besides your paper?

A. He does not.

Q. Why did you change?

A. I appointed Golos district agent, because Rubin Brothers were handling the "Pictorial Review."

Q. Your company then objected to Rubin Brothers handling the "Review," and you made a contract with a new man?

A. Yes, sir.

Q. Was that contract the new contract that the company is putting out?

A. Yes, sir.

Q. One of the new contracts?

A. Yes, sir.

Q. Now, in putting in this agent, was it necessary to make any guarantees to your man?

A. Absolutely not.

Q. Then, he is acting strictly on the usual commission basis?

A. Absolutely.

Q. How many does he sell?

A. He has not started yet.

Q. How many did Rubin Brothers sell?

A. About 800 "Posts."

Q. How many of the others?

A. About 700 "Ladies' Home Journal" and about 100 "Country Gentleman." These figures are approximate.

Q. That is all I want. What other business does he do?

A. He is a salaried employee of the Daily Herald Company.

Q. That is a newspaper in that city?

A. Yes, sir.

Q. What does he do for that paper?

A. He is assistant business manager of that paper.

Q. When was Clements & Hill your agent at Greensburg, Pennsylvania?

A. I understand about ten years ago.

Q. How long has the Greensburg News Company been in business there?

A. Indeed I do not know.

Q. For quite a while?

A. I do not know at all. They have been for a year, I am positive.

Q. Now, in your capacity as superintendent, you try to get the best agents there are, do you not?

A. Yes, sir.

Q. In the event that they are not making a careful circulation of your magazines, you would get others, would you not?

A. I would.

Q. How many have you changed from the old to the new contract, in your district?

A. About thirty.

Q. Are the agents that I have asked you about in Johnstown, Altoona, Dubois, Harrisburg and these various other cities, under the new contract?

A. Not all of them.

Q. Are those in Johnstown, Altoona, Dubois and Harrisburg, under the new contract?

A. Our Dubois man is, Altoona is—Johnstown is not.

Q. What others are under the new contract?

A. Indiana, Pennsylvania, Dubois, Ridgeway, St. Mary, Kain, Warren, Bradford, Hornell, N. Y., and Ithaca.

Q. How many of these began with the Curtis—did you say?

A. Every one.

Q. Of the fifteen?

A. They began as magazine wholesalers; yes, sir.

Q. Some of them sell newspapers, do they not?

A. Yes, sir.

Q. When you said that they all began with the Curtis publications, you mean they began handling magazines?

A. Yes, sir.

Q. How did the others begin, if you know?

A. Without exception, they began with the Curtis Publishing Company as wholesalers of the Curtis Publishing Company—all of them.

Q. The whole forty?

A. As magazine wholesalers; yes, sir.

Q. The whole forty?

A. Yes, sir.

Q. Began with Curtis in selling magazines?

A. Yes, sir.

Q. And they afterwards took on other magazines?

A. Yes, sir; we are speaking of wholesalers, I understand. You say "handle."

Q. Wholesale dealers I am talking about.

A. Yes, sir.

Q. Now, can you name the ones that have not gone over to the new contract yet?

A. I am not exactly sure in my whole territory——

Mr. Milburn: Will you please read that question?

(The stenographer repeated the question.)

The Witness: I will tell you why I cannot tell you exactly. While I am here, Mr. Weyler is going over in my territory, changing some of them over.

Mr. Daly: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You said you appointed Mr. Golos a new agent in Elmira?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Have you appointed any other new agents recently?

A. Yes, sir.

Q. How many?

A. How recently?

Q. Well, in the last three months.

A. I have appointed about eight or ten.

Q. Did you have any difficulty in getting them?

A. Absolutely not.

Q. Have you, in any instance, either you or the company, offered any bonus to the new agents?

A. No, sir.

Q. They are all under the regular contract relationship?

A. Yes, sir.

Q. And during your work in that district, have you had to change agents from time to time?

A. Yes, sir.

Q. Have you ever made a guarantee arrangement in that district?

A. No, sir.

Q. Does Koplovitz handle newspapers?

A. He takes charge of the route boys in Harrisburg.

Q. In your general work in your district, have you worked with the agents with reference to boys?

A. Yes, sir.

Q. What have you done?

A. I have gotten agents who are capable of handling good boys.

Q. What work have you done personally with the boys, if any?

A. I have held meetings with them at the Y. M. C. A., and met them at the places of distribution of the district agents and encouraged them to sell more Curtis publications and introduced them to the secretaries of the Y. M. C. A., if they did not know them, and have gotten them interested there—general promotive work.

MR. MILBURN: That is all.

(Witness excused.)

EDWARD H. JOHNSON was called as a witness on behalf of the respondent, and being first duly sworn, testified as follows:

DIRECT EXAMINATION,

By MR. WELCH:

Q. What is your position, Mr. Johnson, at the present time?

A. I am manager of the Central News Company of Philadelphia.

Q. Is the Central News Company a branch of the American News Company?

A. It is.

Q. How long have you been connected with the American News Company?

A. Since the spring of 1884.

Q. What is the business of the American News Company at the present time, generally?

A. The business of the American News Company is the putting on the market and selling of newspapers, periodicals, books, stationery, post cards, etc.

Q. Are you an officer of the American News Company?

A. Yes.

Q. What position do you occupy?

A. I am one of the directors of the American News Company.

Q. When was the American News Company organized and first commenced business?

A. In 1864. We commonly date it from that time.

Q. At first, what did the American News Company handle?

A. At that time story papers were coming onto the market, and odds and ends of publications like the "Boston True Flag" and many other publications that have long since ceased to exist. The newspaper business was an important part of the business at that time. Then, later on, other publications came on the field, like Frank Leslie's magazine, which was a great stimulation to the publishing business following the Civil War.

Q. And then it afterwards gradually took up the distribution of magazines; is that right?

A. Modern magazines, yes; they came on. There was an opportunity of an organization for their distribution, with the cheapening in the cost of printing paper, which the wood pulp process developed, there was a great stimulation of publishing magazines and periodicals.

Q. What is one of these earliest magazines that you can recall, that it now distributes?

A. The American News Company started?

Q. Yes.

A. Still in existence?

Q. Yes.

A. And the magazine which the American News Company put entirely on the market?

Q. Yes.

A. I could recall very few such.

Q. I want to know how far back the American News Company——

A. I should say "Leslie's Weekly," known then as "Frank Leslie's Weekly," was perhaps as old as any.

Q. How long has the American News Company been handling the "Century Magazine"?

A. The "Century Magazine," I should say for at least thirty years.

Q. Now, is the American News Company used exclusively by a great many publishers in the country for the distribution and sale of their trade editions?

A. Yes, sir; it is. I should say probably by 350 or 400 publishers, or different publications, rather.

Q. You have seen the list of magazines and periodicals testified to in this case by Mr. Mackinnon, on cross-examination as being handled and distributed exclusively by the American News Company, have you not?

A. I have, sir; yes.

Q. And there are a great many in addition to that?

A. A great many.

Q. How many do you say altogether?

A. I should say perhaps four hundred.

Q. Now, are the four hundred magazines and periodicals that you referred to handled by the American News Company as exclusive agents?

A. Yes, sir; trade editions.

Q. Can you give any particular example—specific example—of any magazine or periodical that has made a particular increase in circulation while being handled by the American News Company?

A. I can name a great many. One of the first that occurs to me as an immediate success, achieved in a very short time, is the "Popular Science Monthly," a 15-cent magazine, devoted to the delination of patents, and mechanisms of all kinds, and just the sort of pub-

lication which at a time like this would be likely to excite public interest and does so.

Q. When did that start, about, approximately?

A. I shall have to refer to some notes in reference to that. The history of the "Popular Science Monthly" is something like this: It was formerly and originally "Modern Electrics and Mechanics"; then "Popular Electricity and Modern Mechanics"; then "Modern Mechanics"; then "World Advance"; then "Modern Electrics and Mechanics," and after a while settled into its present form of "Popular Science Monthly." The first record I have of our handling it was in January, 1908, when we took 2700 copies.

Q. What is the present circulation?

A. Two hundred and eighty-one thousand.

By Mr. Daly:

Q. Is that monthly circulation?

A. That is monthly, Mr. Daly, yes, sir.

By Mr. Welch:

Q. Are there any other special instances?

A. I have here a memorandum in connection with that circulation, written to me personally by the treasurer of the company, February 17, 1917, in which he——

Q. I do not think we will go into it.

A. You don't care for it?

Q. No; I don't think we can go into that. Now, have the circulations of most of the magazines and periodicals that the American News Company is handling increased from time to time, and are they increasing at the present time?

A. As a general thing they are increasing with the growth of population. They vary from time to time in excellence and in selling value.

Q. Now, with respect to the "Pictorial Review," when that started ten years ago—when did that start with the American News Company?

A. The first record I have of it, I suppose it began to sell through us in about 1904.

Q. And has the circulation of the "Pictorial Review" increased steadily since that time, up to the time it left the News Company as exclusive agent?

A. It did. I will give you some of the figures if you like, running along for various years.

Q. We have figures in the record.

A. The last figures I have of output were in March, 1917, 365,000 copies.

Q. How long has the American News Company been handling the Crowell publications?

A. It has been selling some of the Crowell publications longer than others, of course. "Every Week" is a comparatively new publication. The "American Magazine" and "Woman's Home Companion" they have been handling for years.

Q. For how many years, just roughly?

A. Oh, I should say ten or fifteen years, at least.

Q. Have the circulations of those two magazines steadily increased, up to the present time?

A. They have.

Q. I mean the circulation through the American News Company?

A. They have, decidedly so.

Q. Now, it has been testified in this case by Mr. Mackinnon and by Mr. Beck that the American News Company had only sixty branches, and that others were located in cities that were somewhat scattered. The balance of the country would be uncovered. That was Mr. Beck's testimony. In respect to that, how many branches has the American News Company for delivery and distribution?

A. They probably overlooked the fact that we have subsidiary branches or branch deliveries, when they said that there were sixty branches. I have no doubt they had in mind our larger branches.

Q. Now, what are the sixty branches?

A. They are branches like the parent house in New York and the New England News Company. These branches are given local names, and the New England News Company and the Central News Company, of Philadelphia, the Western News Company, of Chicago, the New Orleans News Company, of New Orleans, and many others, totaling up, large and small, in the neighborhood of sixty branches. In addition to those there are thirty-five to forty—probably nearer forty—I cannot say exactly, because they are in process of development all of the time—delivery branches, but contiguous to our large branches. For example, in Philadelphia would be as a part of my distribution in Philadelphia the Central News Company. There would be the Harrisburg News Company, one of our branch deliveries, the Wilmington News Agency and the Atlantic City News Company.

Q. Well, now, in those delivery branches, what arrangement has the American News Company for making deliveries, and what do they do with respect to deliveries in those towns?

A. We have a resident salaried agent, and usually a small delivery car—Ford delivery car, or some other, and we handle all of the accounts of the dealers supplied by us in such a city, in Philadelphia, or in the branch that is naturally handling the publications for the other delivery brances.

Q. Are deliveries made without any charge in the branch cities and the delivery branch towns, as well, to the retailers?

A. A delivery charge is made.

Q. What is that delivery charge?

A. The transportation to those points is paid by us. The delivery charge varies from 25 cents to $1, speaking of a town like Harrisburg.

Q. Right in that connection, I want to ask you with

respect to some testimony given in this case, that the delivery charge was a charge running from 25 cents up to two or three dollars a week. You say now that that is about one dollar—25 cents or one dollar?

A. The latter figure of $3 would be unusual. I won't go so far as to say it might not exist with some large dealer, but very unusual.

Q. It is as low as 25 cents a week; is that a fact?

A. Yes.

Q. What does that cover?

A. The delivery charge in cities where we have branches for delivery, covers delivery of daily and Sunday newspapers, periodicals, books, stationery and general merchandise and the collection of the same, when not sold, and is returned to us at our expense, and the transfer of merchandise from dealers who have an excess, to those who have not enough, and the general working up of the business.

Q. That comes under your promotion service?

A. Yes, sir.

Q. (Handing witness). Now, I show you a list of various news companies and what are specified as news company branches, and ask you if those are all subsidiaries of the American News Company, and whether that embraces the branch delivery stations that you speak of?

A. Yes, sir; it does, except as I stated before, we are developing these branch deliveries all of the time, and necessarily any list of branches this week or last week, might be incomplete. I notice, for example, the absence of the Wheeling branch delivery. Wheeling, West Virginia, should be on there.

MR. WELCH: I offer these in evidence.

THE WITNESS: And one at Oklahoma City also, which is not on there. Those are being opened all the time.

Q. Then, in addition to the list which you furnished me, you have other delivery points—you just mentioned two?

A. They are the only ones that occur to me now, but we have others in contemplation. It is difficult to find men always to operate them.

MR. DALY: Now, Mr. Welch, I do not see what bearing these foreign delivery points have. Strike out the foreign ones and we have no objection to it.

MR. WELCH: You mean Australia?

MR. DALY: Australia and Canada.

MR. WELCH: Mr. Johnson, will you mark on this list which of the branches and delivery points are not within the United States.

THE WITNESS: I will check them off.

(The paper referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 12," and is as follows):

RESPONDENT'S EXHIBIT No. 12.

"The American News Company, 9 to 15 Park place, New York, N. Y.

The Akron News Agency, 37 South Maple Street, Akron, Ohio.

The Albany News Company, 508 and 510 Broadway, Albany, N. Y.

The Baltimore News Company, 227 North Calvert Street, Baltimore, Md.

The Bridgeport News Company, 248 and 250 Middle Street, Bridgeport, Conn.

The Brooklyn News Company, 47 Debevoise Place, Brooklyn, N. Y.

The Buckeye News Company, 73 East Spring Street, Columbus, Ohio.

The Buffalo News Company, 52 to 56 East Mohawk Street, Buffalo, N. Y.

The Central News Company, South Washington Square, Philadelphia, Pa.

The Cincinnati News Company, 127 and 129 Shillito Place, Cincinnati, Ohio.

The City News Company, 16 North Main Street, Fall River, Mass.

The Cleveland News Company, 1552 Third Street, Cleveland, Ohio.

The Colorado News Company, 1444 Arapahoe Street, Denver, Colorado.

The Connecticut News Company, 14 Crown Street, New Haven, Conn.

The Detroit News Company, 86 to 90 West Larned Street, Detroit, Michigan.

The Eastern News Company, 67 and 79 Union Street, Portland, Maine.

The Georgia News Company, 85 Walton Street, Atlanta, Georgia.

The Grand Rapids News Company, 313 South Division Avenue, Grand Rapids, Michigan.

The Hartford News Company, 146 State Street, Hartford, Conn.

The Indiana News Company, 110 North Senate Avenue, Indianapolis, Indiana.

The International News Company, 83 and 85 Duane Street, N. Y.

The Iowa News Company, 309½ to 311 Second Street, Des Moines, Iowa.

The Los Angeles News Company, 201 and 203 North Los Angeles Street, Los Angeles, California.

The Louisville News Company, 507 West Main Street, Louisville, Kentucky.

The Memphis News Company, 227 Madison Avenue, Memphis, Tenn.

The Minneapolis News Company, 17 East Hennepin Avenue, Minneapolis, Minn.

The Minnesota News Company, 19 and 21 West Third Street, St. Paul, Minn.

The Newark News Company, 231 Washington Street, Newark, N. J.

The New England News Company, 93 to 101 Arch Street, Boston, Mass.

The New Orleans News Company, 214 Decatur Street, New Orleans, La.

The Northern News Company, 15 to 17 Third Street, Troy, N. Y.

The Omaha News Company, 1417 Davenport Street, Omaha, Neb.

The Oregon News Company, 440 Gilisan Street, Portland, Oregon.

The Pittsburg News Company, 237 and 239 Third Avenue, Pittsburg, Pa.

The Puget Sound News Company, 1931 Second Avenue, Seattle, Wash.

The Rhode Island News Company, 50½ Webosset Street, Providence, R. I.

The Richmond News Company, 414 East Marshall Street, Richmond, Va.

The Rochester News Company, 19 to 27 Church Street, Rochester, N. Y.

The San Diego News Company, 930 State Street, San Diego, Calif.

The San Francisco News Company, 747 to 751 Howard Street, San Francisco, Calif.

The Scranton News Agency, 223 and 225 Linden Street, Scranton, Pa.

The South-West News Company, 313 to 323 East Sixteenth Street, Kansas City, Mo.

The Spokane News Company, 112 to 114 South Madison Street, Spokane, Wash.

The Springfield News Company, 25 and 27 Fort Street, Springfield, Mass.

The St. Louis News Company, Inc., 1008 and 1010 Locust Street, St. Louis, Mo.

The Syracuse News Company, 417 and 419 South State Street, Syracuse, N. Y.

The Texas News Company, 710 Main Street, Dallas, Tex.

The Toledo News Company, 143 and 145 Michigan Street, Toledo, O.

The Utah News Company, 39 and 41 Post-Office Place, Salt Lake City, Utah.

The Washington News Company, 313 and 315 Sixth Street, Washington, D. C.

The Western News Company, 21 to 29 East Austin Avenue., Chicago, Ill.

The Wisconsin News Company, 308 East Water Street, Milwaukee, Wis.

The Worcester News Company, 24 to 26 Harding Street, Worcester, Mass.

The Alabama News Company, Birmingham, Ala.

The Nashville News Company, Nashville, Tenn.

The San Antonio News Agency, San Antonio, Tex.

Branch 1, 295 Third Avenue, N. Y. City.

The New York News Company 110-114 West Thirty-second Street, N. Y. City.

The National News Company, 117 East 126th Street, N. Y. City.

East Side Delivery, 76 East First Street, N. Y. City.

Yorkville Delivery, 215 East 86th Street, N. Y. City.

The South Brooklyn News Company, 277 to 279 12th Street, Brooklyn, N. Y.

The Asbury Park News Company, 816 Cookman Avenue, Asbury Park, N. J.

The Elizabeth News Company, 26 Westcott Place, Elizabeth, N. J.

The New Jersey News Company, 37-39 Newark Avenue, Jersey City, N. J.

The Paterson News Company, 281 Market Street, Paterson, N. J.

The Yonkers Delivery, 280 New Main Street, Yonkers, N. Y.

New Bedford, Delivery of R. I.

Binghamton, N. Y. Delivery of Albany.

Schenectady, N. Y. Delivery of Albany.

Utica, N. Y. Delivery of Albany.

Erie, Pa. Delivery of Buffalo.

Atlantic City, N. J. Delivery of Central.

Harrisburg, Pa. Delivery of Central.

Wilmington, Del. Delivery of Central.

Dayton, Ohio. Delivery of Cincinnati.

Youngstown, Ohio. Delivery of Cleveland.

Waterbury, Conn. Delivery of Connecticut.

Kalamazoo, Michigan. Delivery of Grand Rapids.

Duluth, Minn. Delivery of Minnesota.

Superior, Wis. Delivery of Minnesota.

Lowell, Mass. Delivery of New England.

Tacoma, Wash. Delivery of Puget Sound.

Wilkes-Barre, Pa. Delivery of Scranton.

Holyoke, Mass. Delivery of Springfield.

Fort Worth, Tex. Delivery of Texas.

Davenport, Ia. Delivery of Western.

Moline, Ill. Delivery of Western.

Rock Island, Ill. Delivery of Western.

Norfolk:

Portsmouth, Va.: Delivery of Baltimore.

Home Book and News Company, Rockford, Ill. Ret. Br. of Western.

By Mr. Welch:

Q. Now, which of the places named on that list are the delivery branches you have described?

A. Do you wish me to name them?

Q. I think you had better.

A. I could indicate them here. The Home Book and News Company, Rockford, Illinois. The Portsmouth, Virginia, delivery, delivery of Baltimore.

By Mr. Daly:

Q. You mean Baltimore delivery?

A. Delivery of the Baltimore News Company, one of our branches.

Q. Portsmouth, Virginia, is that what you mean?

A. Portsmouth, Virginia; yes, sir. Moline, Illinois, delivery, Western News Company. Davenport, Iowa, delivery of Western. Fort Worth, Texas, delivery of the Texas News Company. Holyoke, Massachusetts, delivery of Springfield. Wilkes-Barre, Pennsylvania, delivery of Scranton. Tacoma, Washington, delivery of Puget Sound; Lowell, Massachusetts, delivery of New England.

By Mr. Welch:

Q. What do you mean by delivery New England, New England News Company?

A. New England News Company. That is a delivery branch which draws its supply from our New England branch in Boston. Superior, Wisconsin, delivery of Minnesota. Duluth, Minnesota, delivery of Minnesota News Company. Kalamazoo, Michigan, delivery of the Grand Rapids News Company. Waterbury, Connecticut, delivery of the Connecticut News Company. Youngstown, Ohio, delivery of the Cleveland News Company. Dayton, Ohio, delivery of the Cincinnati News Company. Wilmington, Delaware, delivery of the Central News Company. Harrisburg, Pennsylvania, delivery of the Central News Company.

Atlantic City, New Jersey, delivery of the Central News Company. Erie, Pennsylvania, delivery of the Buffalo News Company. Utica, New York, delivery of the Albany News Company. Schenectady, New York, delivery of the Albany News Company. Binghamton, New York, delivery of the Albany News Company. New Bedford, Massachusetts, delivery of the Rhode Island News Company. Wheeling, West Virginia, delivery of the Pittsburgh News Company. That is not down here, but it exists. The Oklahoma delivery of the South-Western News Company—Oklahoma City. The Rock Island, Illinois, delivery of the Western News Company. Then there are a number in Canada, which I have excluded.

By Mr. Welch:

Q. Is that all, Mr. Johnson?

A. That is all that I think of.

Q. Now, those places are all in addition to the sixty main branches in the United States. Is not that a fact?

A. Yes, sir; and in setting forth the number of our branches and deliveries, we have always been in the habit of including the whole continent and not excluding Canada. We do a very large business in Canada.

Q. How many branches have you there?

A. We have two important branches, one in Montreal and one in Toronto, and other small ones, like St. Johns, Ottowa and Manitoba.

Q. Are these delivery branches in the United States that you have testified about being extended in number from time to time?

A. All the time. The ultimate idea is to have probably a hundred of them.

Q. Now, with respect to what has been called the promotion service of the American News Company, how does that operate so far as keeping records of the copies—that is, an overstock or an understock?

A. It is a very big thing.

Q. Explain what it is.

A. It is a voluntary effort on the part of the American News Company to perform what it considers to be its duty toward the publishers. It is not a contractual arrangement or agreement whatever. It is not part of any contract it has with any publisher to do this work, but is what we have taken upon ourselves as a moral obligation. It costs about $100,000 a year to do it.

Q. What is it?

A. It consists in attempting to make scientific distribution of periodicals that are returnable—that are consigned to dealers on sale. Like all human things, it does not always work to satisfy us, but, in the main, it is a great feature in the selling of periodicals. The best part of it is the careful examination of the waste of a newsdealer's business.

Q. Do you get reports from your various branches—delivery branches—as to the number of copies sold and the number of copies remaining unsold with the various dealers?

A. We get very many such reports. For example, my little delivery branch in Harrisburg, with a man in charge, operating perhaps forty or forty-five dealers, every day sends in reports to Philadelphia of his visits among the newsdealers, and sheets showing the transfers of merchandise from one dealer to another. It is inevitable that an initial distribution of any one thing will be unequal. No one man can ever tell exactly where to place the copies.

Q. With respect to the distribution of magazines—

MR. DALY: He did not finish that sentence.

MR. WELCH: Very well, go ahead.

THE WITNESS: It is absolutely impossible to tell where to place copies and where our agents

are and promoters are, and those inaccuracies in initial delivery are rectified.

Q. Are you speaking now of commencing the distribution of a magazine, or of magazine distribution after it has been started and is being handled by you?

A. Of both, Mr. Welch. More mistakes are likely to be made in the initial distribution of a new thing.

Q. That is what I thought.

A. But afterwards, mistakes will be made because of the selling power of a new number, or possibly a defect in manufacture or in popularity of a new feature affecting its sales. All of those things are variable quantities that cannot be forecast.

Q. In carrying out this work of regulating the number of copies that a particular dealer should have, what forms of reports are made, and how often are those reports made, generally speaking?

A. We have reports from outside men every week, but the most important part——

Q. What do you mean by "outside men"?

A. I mean who work outside of the establishment, among the dealers.

Q. Employes of the American News Company?

A. Employes of ours sent out, who work among newsdealers, and improve conditions and transfer stock.

Q. How do they work—that is what I want to find out—just how do those men work and what do they do with respect to the main office?

A. They go to the most important dealers, for the distribution of periodicals in these days is a qualified distribution and periodicals are bunched where they are most likely to sell, and possibly there are considerable areas of important periodicals where dealers do not get very many, who do not deserve very many, or who could not sell them if they had

them. These men go there and examine the stock—correct the quantity of stock, and they have also records of the dealers they have seen, as to whether they have more or less stock than they need, and they transfer it accordingly. They hang up posters and bills illustrating the periodicals, and so forth, but all that kind of work is of less value than the work done in the shop.

Q. What is that?

A. As I said a little while ago, it is the examination of the waste of the dealer's business. The waste is the unsold product which is returned to us for credit. A careful examination of that is just as valuable as the physician's or surgeon's analysis of the waste of the human system, in order to find out what the matter is. It is perfectly akin to that.

Q. How does that information come to the main office, upon which to work?

A. That comes in on the returns of unsold copies that have been sent out, and those returns are examined and tabulated and placed, and set forth under dates and in quantities and the reply to the dealers' existing orders and future orders are manipulated by us with the dealer's knowledge and consent, because he could seldom do that for himself, with the idea of increasing the sales or decreasing the returns. The motto is to sell more and return less. That is the aim of what the men are instructed to do.

Q. Now, in that way, you are able to get a pretty accurate estimate as to the number of magazines that a dealer can handle and dispose of?

A. Yes.

Q. And does that tend to lessen the amount of the returns?

A. It tends to decrease the waste and increase the net sales. It would be more effective if the editions

manufactured were manufactured closer to the time when we make the distribution to the dealers, but, necessarily, our orders have to be placed with the publishers a long time in advance and sometimes trade changes take place, particularly in the four seasons of the year, when the number of copies printed by the publishers proves to be too many or too few, as the case may be.

Q. Will you state, Mr. Johnson, what your activities were in effect upon the circulation of "Every Week" at the time it came to the American News Company for distribution—when was that?

A. I should say about four years ago. My attention was first drawn to "Every Week" through seeing it as a feature in the "Sunday Press," which we were selling, as a supplement. The publication was owned, I believe, at that time, by the American Lithographing Company, which was manufacturing it, and they proposed to set this magazine out on its own footing before the American public, to see if it could not live on its own sales. Mr. Knapp and Mr. Bresnahan sent for me and asked if I was willing to put this on the market in Philadelphia, and I assented and suggested a scheme for doing it which I had originated and intended to apply to "Collier's Weekly" a number of years before, when Mr. Beck was with "Collier's Weekly." Mr. Beck and I went over this and elaborated the scheme and he approved of it and we were about to apply it to "Collier's Weekly when Mr. Beck left the employ of "Collier's Weekly" and went into the employ of the American Lithographing Company, and then the nice scheme remained dormant for several years. I did not think anything more of it until Mr. Knapp and Mr. Bresnahan sent for me in connection with "Every Week." I thought I might apply it to "Every Week."

Q. What was that plan, briefly?

A. The plan was to use the newsdealers as distributive sources of supply for boys, and to pay them a commission for doing so.

Q. What advertising features did you have in respect to that?

A. I wrote personally a lot of circulars and issued them in series to the trade. I have them here.

MR. DALY: Was this a plan that was put into force?

THE WITNESS: Sir?

MR. DALY: Was this plan ever used in the distribution of "Every Week"?

A. It was, sir, in Philadelphia, and it is still to a certain extent being used. It consists of——

By MR. WELCH:

Q. I only want to ask you if you got out a number of trade circulars?

A. Yes, sir; this was original work, work extending far beyond the ordinary distributive work.

Q. What increase was obtained in the circulation of "Every Week" by reason of the promotive effort that you talked about?

A. It secured an immediate hold upon the public of Philadelphia which, under other circumstances, I conceive it would not have acquired.

Q. Have you any figures on that?

A. It started with 35,000 a week.

Q. And what was that circulation built up to by reason of that promotive work?

A. It never went beyond that. That is, locally in the city of Philadelphia, you understand.

Q. I am not speaking locally. I am speaking about all over the country.

A. Oh, you are speaking about all over the country?

Q. Yes.

A. I do not know the total circulation of "Every Week" all over the country. I understood you tc speak of local conditions in Philadelphia.

MR. DALY: That was what the testimony was confined to, Mr. Welch. He testified of what he did in Philadelphia.

By MR. WELCH:

Q. You have no figures, you say, on the circulation of "Every Week" in other parts of the country?

A. No, sir; I have not.

Q. It has been testified, Mr. Johnson, that the charge of the American News Company to the dealer, outside of the News Company branch cities, runs from $5 to $10 a week. Do you know of any instances where the charges would amount to that, in your experience?

A. I do not. I wish I did. It would imply a sale of a thousand pounds of reading matter to a country dealer a week, which would be very gratifying. There are very few such cases.

Q. That delivery charge I have just referred to applies to books and stationery and everything that could be delivered, and not solely to magazines and periodicals?

A. It is a general blanket charge.

Q. For everything that particular dealer may demand?

A. Yes, sir.

Q. Now, will you state, Mr. Johnson, what the present distributive arrangement is between the American News Company and the Crowell Publishing Company?

A. Well, it is in its main features very much like all our arrangements——

Q. You distribute exclusively for the Crowell Publishing Company?

A. We distribute exclusively their publications to the trade — the trade editions of their publications. There are a good many instances where that would appear not to be the case, inasmuch as dealers—local dealers—in scattered cities and towns of the country, are receiving their supply directly from the publishers for issuance to newsdealers, but that is done by arrangements between the Crowell Publishing Company and ourselves.

Q. That is, the Crowell Publishing Company, while supplying the wholesalers direct, has an arrangement with you, have they not?

A. Yes.

Q. By which they pay you a certain commission?

A. They put us in the position that we would be in if we sold the same number of copies to the individual dealers. That arrangement, however, applies chiefly to "Every Week." "The American Magazine" and the "Women's Home Companion" are, in the main, sold in the ordinary, normal way.

Q. That is, under contract for exclusive distribution through the American News Company?

A. Yes, sir.

Q. How many retail dealers, approximately, are there in the United States?

MR. DALY: He does not know that, does he?

MR. WELCH: I should think he ought to know.

THE WITNESS: We generally estimate from 35,000 to 40,000 dealers having stocks of merchandise. There, no doubt, are a great many more occasional and sporadic dealers. I have known of people in making up such estimates or figures of dealers, to include occasional random persons who may sell a single copy this week or next week—barber shops and candy shops, etc., but we do not include them.

Q. You mean established dealers?

A. Yes, sir; we have some dealing with us fifty years, who are still in existence.

Q. Does the American News Company reach all the dealers in the United States in distributing periodicals and magazines?

A. Well, it is able to.

Q. I mean, is it able to?

A. Yes, sir; it is able to. It reaches from a third to a half, I should say, of the dealers in the country, through its branches and branch deliveries, which is a quantity that will grow as the branch deliveries are developed.

Q. That is to say, one-third or one-half of these dealers are in cities where the American News Company has either branches or branch deliveries?

A. Yes, sir; for instance, in Philadelphia, we would have about 1500 dealers in the city and state, 800 of them in the city of Philadelphia, so that it would be more than half there.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You said you have been a long while with the American News Company, Mr. Johnson, and that there has been a constant growth during that period. Now, will you tell me when you put in this first branch—I do not mean the sixty branches, I mean sub-divisions—that is, if you can remember, about when, I do not mean the day of the month or week?

A. Such things are difficult to remember, Mr. Daly, but as far as I remember, it was done from Philadelphia in either Atlantic City or Wilmington.

Q. And how long ago was that?

A. It must have been over ten years ago.

Q. Now, then, when did you put in the last one?

A. It is being put in now.

Q. How many have you put in this last year?

A. Let me see——

Q. Out of this number, I mean.

A. I should say half a dozen.

Q. Can you tell me which ones were those?

A. Wheeling, West Virginia, one that is being put in now at Oklahoma City—have you that list that I submitted of all the branches? Perhaps that would help my memory? Another one would be Norfolk, which has been developed by the necessities of the war.

THE WITNESS: That is all that I think of.

By MR. DALY:

Q. When were they put in, Mr. Johnson?

A. The one at Oklahoma City is being put in now. The one in Wheeling, West Virginia, was put in last month. The one in Harrisburg was put in, I should say, in January, and so they go along.

A. This year?

A. This year; as opportunity offers.

Q. Take 1917, for instance; how many were put in and what ones?

A. That would be hard to say. I don't really know, Mr. Daly, when these were put in. Some of them were two years ago, some longer. I don't know anything that goes back of Atlantic City or Wilmington.

Q. I want to know how recent these branches are, whether most of them were put in in the last year or two, or three years. I want all of the data about that. Will you get it for me?

A. Yes, sir; I shall be glad to get it for you. It is a matter of record, but it is not a thing I would be likely to burden my mind with.

Q. As a matter of fact, quite a number of them were put in within the last couple of years?

A. Yes; it is a progressive idea. It started ten

or fifteen years ago with the idea that such things would be helpful to the business and to publishers, and as opportunity offered, we found them—they were developed, two or three at a time, and then perhaps a lapse without any. It is very difficult to get good men in these days for such purposes.

Q. What was the necessity for putting in a branch in Atlantic City?

A. Well, there is a great deal of transient trade in Atlantic City, people going and coming, and it is difficult to handle the trade at that point without having a man on the spot, to look after your interests.

Q. You could not get magazines out then as well without such a system there, could you? You couldn't really efficiently serve the people?

A. We could distribute the magazines as well, probably, but we should have to employ an express company to do it, whereas now we have our own motor car and the express companies are notably slow in these days, and always have been more or less irregular. They have only one or two services a day.

Q. Your service, of course, at Atlantic City, now coming right down to it, is much better than it was in the days when you distributed there by express?

A. Yes; that would be a long time ago.

Q. Now, take the city of Wilmington, which was a long time ago. You put in a branch there, did you not?

A. Yes, sir.

Q. What was the occasion for putting in that branch?

A. The publishers of certain Philadelphia newspapers were in trouble there with the agent who had not paid his bill, and he owed them about three thousand dollars. He owed the various Philadelphia publishers about three thousand dollars, and they came to us and said that if we would take over that debt, they would give us the agency in Wilmington for their

newspapers, and we thought that was a very good time. That must have been fifteen years ago, at least. We thought that was a very good time and way for us to enter Wilmington. We did so. We bought that business and paid the debts of this dealer to the publishers, and started in business there.

Q. What kind of a dealer was that?

A. Well, he was especially a newspaper dealer.

Q. He did not distribute many magazines, did he?

A. That I cannot say. I presume he sold some magazines, but the town relied upon us at that time for its magazines, and in connection with his newspaper business, such a man usually does try to supplement it with anything outside that they can get.

Q. Prior to that, you did business in Wilmington by sending magazines down by express?

A. As if Wilmington was a smaller town. Wilmington has grown enormously in fifteen years.

Q. Now, having your representative there, you, of course, can circulate your magazines much more readily and much more satisfactorily, can you not?

A. Yes; of course, it costs us a good deal to do it.

Q. Yes; no doubt of that. Now, then, take Wheeling, West Virginia, for instance, what was the occasion for putting in a branch there?

A. No special occasion, except general development ideas, that is all. It was regarded as a good center and a very good place to develop business; that is all; just the ordinary development ideas. There was no special occasion for it.

Q. Well, then, as I understand it, your idea was to intensify the circulation; is that correct? To intensify the circulation of these magazines to cover the territory more closely than you had been doing prior to that time?

A. Endeavor to secure more business.

Q. You were trying to get more business?

A. Yes.

Q. Reach out and increase the circulation of the papers you are representing, and magazines, is not that correct?

A. Yes, sir.

Q. Now, prior to putting in this branch, you shipped your magazines there through some branch agency, did you not—one of the sixty branches?

A. Our Pittsburgh branch.

Q. They went by express, did they not?

A. Yes, sir.

Q. And were delivered in that manner that you have described?

A. Yes.

Q. Now, in Oklahoma City, that is true—in the Oklahoma subsidiary branch?

A. The South-West News Company of Kansas City.

Q. And the conditions there are the same, are they not?

A. That is in process of being erected.

Q. The whole scheme or plan of those forty subsidiary agencies was for the purpose of making your whole plan of distribution much more efficient; is not that true?

A. Yes.

Q. And prior then to the time that you had these agencies, you could not distribute magazines as readily and as well as you could in those communities since those agencies have been instituted; is not that correct?

A. In the main; yes, sir.

Q. You have testified that there are about forty of these branches. Now, in that testimony I take it you include the Canadian—the foreign branches also in the forty?

A. In my general statement, yes, sir.

Q. You have put in a record a number of towns or cities in which these branches are in this country, and I think it shows twenty-one?

A. We regard Canada as a part of the country in selling periodicals. We don't regard it as a foreign country.

Q. In this country you have about twenty-one of those subsidiaries?

MR. WELCH: Did Mr. Johnson say twenty-one was correct?

MR. SPIESS: That is the number he read off.

MR. DALY: I counted them.

MR. WELCH: Twenty-one subsidiaries.

MR. DALY: Twenty-one subsidiaries I am speaking of.

By MR. DALY:

Q. Now, you have testified that there are about 40,000 retailers in this country, and in that are not included these sporadic characters; that is correct, is it not?

A. Yes.

Q. Then you would not make any particular effort to reach—using your term—each sporadic retailer, would you?

A. Well, the men who run a barber shop or a candy store, that take or receive a periodical thrown in there this week or next week and so on, we don't regard as a news dealer. We can't rely upon him. He carries no stock, and we don't rely upon him as an outlet. He might sell something this week and return it all next week.

Q. Then you confine your efforts to the 40,000; is that correct, or as many as you can reach?

A. As we can reach satisfactorily, and as many as are worth while doing business with.

Q. Now, outside of these cities where you have

established these subsidiary agencies, how many retailers do you reach, do you know?

A. I have already testified that in my opinion from one-third to one-half of the dealers in the country are in cities where we have branches, or branch deliveries. I believe that would leave the other half——

Q. Leave about 20,000?

A. Leave say 20,000 dealers. That I must confess is not a scientific statement. It is not a statement of fact, prepared with absolute accuracy, but everyone who has referred in former testimony in this case and those I have talked with, and my own opinion, justifies the statement that there are about 40,000 of what you would call reliable news dealers in the country.

Q. Now, outside of your branches, then, you would cover about 20,000, you think?

A. Well, I should be willing to say so, yes.

Q. Would you cover as great a percentage outside of the branch subsidiary territory as you would in that territory where these branches operate?

A. I don't think I quite understand you, Mr. Daly.

Q. Would you cover the retailers as effectively outside where you are putting in these organizations?

A. We would have to cover them in a different way. Of course, the man that you cannot approach and speak to, you cannot do so much business with as if you did so. You would have to communicate with him by mail or otherwise, and occasionally a visit of a salesman.

Q. Then, if you could see these retailers and speak to them, and talk up business with them, you could do better than you do now, could you not?

A. Yes.

Q. That would be a very important matter, would it not?

A. If we try to do that with the other 20,000 deal-

ers, I suppose we should have nothing left at the end of the year in the way of profits.

Q. But that would increase the circulation of your magazines, quite considerably, would it not?

A. I suppose it would.

Q. Regardless of cost?

A. There are very wide areas all over the country, where the population is very thinly scattered.

Q. Now, it has been testified in this case by quite a number of what are termed wholesale dealers throughout the country, that are located in quite a number of cities—I presume you are familiar with the kind of people I mean?

A. Yes, sir.

Q. Quite a number of them have testified that they see all of the retailers in their various communities. That would be an efficient means of increasing the circulation of magazines, would it not?

A. I presume it would. Seeing the man, you will generally sell more of anything to him than writing to him, if you are a good salesman and don't annoy him too much.

Q. Now, your ultimate idea of these subsidiary branches is to put in a hundred of them, is it not?

A. We have no figure named, but I said I dared say it might reach that.

Q. Well, some greater number than you have now?

A. Yes.

Q. That is for the purpose of still increasing the efficiency of your organization; is not that correct?

A. Yes; and making it possible for us to sell our other lines of merchandise.

Q. You have certain promotion service that you have spoken about, and you send men out. Take Pennsylvania, for instance, where you probably are more familiar than you are with places further away. Just tell me how many men you keep out in that territory, promoting the sale of these magazines.

A. Only one in Eastern Pennsylvania, and he has just been drafted and gone to the war.

Q. He has gone, has he?

A. He has gone to the war, and he acquired great efficiency, and I will have to find some one else in his place.

Q. Have you any that covers Western Pennsylvania?

A. Not from my branch. Pittsburgh nas, I believe.

Q. From the Pittsburgh branch. I would like to know that. I just want to get the exact facts.

A. The Pittsburgh branch is in process of greater development at the present time, and will become much more effective.

Q. Then he covers the whole of Eastern Pennsylvania—all of the towns and cities in that section, is that correct?

A. Outside of the northeastern part, where New York would run men in.

Q. In the western part, the Pittsburgh man would?

A. Yes.

Q. As a matter of fact, do you send men in from New York into Eastern Pennsylvania?

A. We have a branch at Scranton, a delivery, and Wilkes-Barre, you understand.

Q. That branch has a man to promote the sale of magazines?

A. No; Scranton would not have a man outside. That would be too small a branch.

Q. How many of these forty branches actually have men out, promoting the distribution of your papers—or these twenty-one branches?

A. That would be difficult to say, Mr. Daly. We consider that in a general way, as applied to the system, but we have forty to fifty.

Q. Now, as a matter of fact, your Eastern Penn-

sylvania man operates outside of Eastern Pennsylvania at times, does he not? He covers Wilmington, does he not?

A. No; we have a resident agent at Wilmington, as I testified, and he used to cover Harrisburg, but as soon as we opened Harrisburg as a delivery in January, he did not have to go there any more.

Q. Who goes to Atlantic City?

A. We have a resident agent at Atlantic City also.

Q. Now, you are not bound to use this promotion service under your contract, are you? I mean legally bound?

A. As far as I am familiar with the contracts, and I have nothing to do personally with making them, in New York, the centre of publication of periodicals, I do not understand that we are in any way legally bound by agreement with the publishers to do that sort of work.

Q. And this obligation then that you have taken on yourself, is because of the fact that you are desirous of improving your system, and giving your customers better service; is not that correct?

A. An old company trying to perfect its methods.

Q. Now, do these forty or fifty road men that you speak about, cover Canada as well? There are only twenty-one cities in this country?

A. There is very little of that sort of thing done in Canada.

Q. And these forty or fifty operate then wholly in this country; is that correct?

A. Yes, sir.

Q. Then some branches might have more than one; is that true?

A. True.

Q. Can you tell me any branch that has more than one?

A. Well, I could tell you of my own branch in

Philadelphia. We have men who do—who spend part of their time in this service and part of it on something else. In Philadelphia, for example, I have one man who is what you might call my chief promotion man.

Q. What does he do?

A. Well, he goes out around among the trade, and he knows them all, and he can secure a favorable—he always has a favorable reception on the part of dealers, and they are anxious to please him and do things for him.

Q. What kind of dealers would he see?

A. City dealers.

Q. Large dealers?

A. Large dealers, chiefly those men in the congested portions of the city, where large sales are made. On the fringes of the city—the fringes of the suburbs, the sales are trifling. The sales are being centered of periodicals more and more all the time in regions and parts of the city where the population gathers together.

Q. I am trying to find out the exact facts. These men don't go out around among the small retailers, do they?

A. No, but our drivers who deliver the bundles in the morning, do more or less of that sort of promotive work. For example, I have somewhere here a little placard; in times when there is a shortage of a certain kind of periodical, we issue such a placard and give it to the drivers, this morning, and visiting all of those 800 dealers, they leave that little circular on the way, going out, saying, We are short of this periodical and we want it, and have the dealers to give it to the driver on his return. On his return back he collects it and brings the periodicals in. We use those to fill orders, saving ordering from New York; cut the freight down and satisfy the dealers by prompt service.

Q. As you described Philadelphia in that respect,

that would apply to these various sub-branches, would it?

A. To a certain extent. I might claim that I was doing more and better of that kind of work than some other branch, and possibly if they were here they would make the same claim.

Q. But I am speaking about these twenty-one cities. That is the way that you keep in touch with the retailer?

A. Yes.

MR. WELCH: Let me ask right here, to get it straight, what do you mean by those twenty-one cities, Mr. Daly?

MR. DALY: Speaking of the twenty-one he put in the record as being in this country.

MR. WELCH: He put in more than twenty-one in this country.

MR. DALY: No; I asked him how many were in this country, and he read from the record, twenty-one.

MR. WELCH: Are you trying to find out whether this service is confined to only the twenty-one branch deliveries?

MR. DALY: I am confining my cross-examination now to the twenty-one subsidiaries, just at present.

By MR. DALY:

Q. Now, outside of the sections of the country where you don't deliver by wagons, how do you keep in touch with the retailer?

A. We have their orders for periodicals and we communicate with them. We send them daily bills and weekly statements, and weekly bulletins announcing periodicals, and their issuance and all of the new things that come out, and we, by correspondence, chiefly, and occasionally by visitation on the part of the salesmen

for some other department of the business, who are all instructed to talk up periodicals as well as the special thing which they are selling at the time.

Q. Does that answer my question, how you keep in touch with the retailer? Of course, I suppose that helps the thing along.

A. Nobody gets in touch with the retailer in the smaller districts. Nobody can. It would not pay anybody to do it.

Q. It would not pay anybody to do that, would it?

A. No.

Q. Now, there are men in a great many small places, though, that handle magazines, aren't there?

A. Oh, yes; take a town of two thousand population, it might have two or three dealers.

Q. And they would get in touch with the retailers if they were there, would they not?

A. No; they are retailers. Such a town as that would not support any wholesaler.

Q. As a matter of fact, aren't you in the same touch with retailers in the case of small villages as you are in larger towns which are not covered by your sixty branches or your subsidiary branches?

A. Very much the same situation. Those larger towns, however, are constantly being developed by us.

Q. Now, then, take Jacksonville, Florida, for instance. That would be one of the towns that you covered, would it not, and there is no branch?

A. That is marked down for a delivery branch, this autumn.

Q. Charlestown, South Carolina; is not that one of them?

A. Not a delivery branch, no.

Q. Take Savannah, Georgia?

A. No; that is not a delivery branch.

Q. San Antonio, Texas?

A. No.

Q. Austin, Texas?

A. Not occupied at present by us, no.

Q. You are thinking about putting one in there, are you?

A. It has been suggested.

Q. Wichita?

A. No.

Q. Ogden?

A. No.

Q. Butte?

A. No.

Q. Chattanooga?

A. No.

Q. Elmira?

A. No.

Q. Now, you have stated that you and Mr. Beck made some arrangements about the distribution of "Every Week;" is that correct?

A. They were made with Mr. Bresnahan and Mr. Knapp.

Q. Mr. Beck was connected with it before that time? You did talk over the plan prior to that time?

A. For another publication.

Q. And you put in this plan, which consisted of certain advertising methods that you have described, and so on, and how long did you operate it?

A. It is being operated still. We are still selling "Every Week" in Philadelphia.

Q. I am speaking of Philadelphia. You are still selling "Every Week"?

A. Yes.

Q. Now, when was the plan put in?

Q. As near as I remember, about four years ago. It was immediately following the time when Mr. Knapp began to withdraw "Every Week" from the newspapers as a supplement and put it on the market. I

can't say just what year that was, but to the best of my recollection it was three or four years ago.

Q. Now, that was a supplementally scheme or plan, was it not? It was one that you had not put extensively in operation in other parts of the country, was it?

A. No; there was no opportunity to do so. Until that time we had no periodical to operate such a plan with. There didn't any exist.

Q. Now, in how many cities have you adopted that plan since, with reference to "Every Week," or to any other magazine?

A. The precise plan which I developed in Philadelphia has not been adopted anywhere since. It is, merged into a bigger plan.

Q. And the circulation of "Every Week," at the beginning, was how much?

A. Perhaps we will understand each other better if I know just what you mean by circulation.

Q. You testified something about 30,000 copies.

A. Yes, sir; that was the quantity put out—issued.

Q. Quantity issued?

A. Issued.

Q. What percentage of those were returned, do you know?

A. At first a great many of them—a very large proportion of them—over one half. You must understand, Mr. Daly, that last week they were given away, and that the periodical was a supplement to the "Sunday Press," of Philadelphia, and next week, or this week, we try to sell it, and, of course, it is a difficult thing to charge a price for something that has heretofore been given away, and the return of unsold copies was very large, but the return diminished every week, as the net sale increased, and as far as I remember we—then, of course, we curtailed the original distribution of 35,000 right away and tried to get rid of the waste and surplus,-got it down to 30,000. For a long period the net sales were 20,000 a week.

Q. About how many do they sell now in that way?

A. I should say that since then there has been a modifying circumstance in the increase in its price from three cents to five cents, which would affect the sales somewhat. I should say the net sale now was down to not more than 15,000 a week. I am not able to speak absolutely by the card about that.

Q. Did I understand you to say in your first testimony that the plan was dropped or not? Am I wrong about that?

A. It was dropped by the person for whom it was devised originally, Mr. Beck, because he ceased to be with the periodical for which it was arranged, "Collier's Weekly." He went over to the American Lithographing Company, which at that time was the owner of "Every Week," and this little plan was necessarily dropped. It would have been better applicable to "Collier's Weekly" than to "Every Week," because "Collier's Weekly" was an old established publication.

Q. Now, what arrangements have you with the "Every Week" people about the distribution of their papers?

A. We are the general selling agents.

Q. Do you handle all of their magazines?

A. Not the subscription edition.

Q. Do you handle all of the edition of "Every Week"?

A. Not the subscription edition, in so far as——

Q. Now, will you make it clear to me just where you do distribute magazines through other avenues?

A. There is always a subscription avenue.

Q. Leaving out the subscription?

A. We have nothing to do with that.

Q. Then they deliver their papers through what are termed wholesale dealers in these various communities, somewhat at least?

A. By arrangement with us.

Q. You permit them to do that, do you?

A. I believe such an arrangement exists.

Q. Now, was it necessary for them to do that, do you know?

A. Well, I am not in their confidence, and I do not know what original ideas they had concerning that, but there would be—they thought, no doubt, some saving in freight, at a time when freight was very much congested, by shipping from the office of publication, which is in the West, to the dealers, instead of sending it, that is to say, from our branch in Philadelphia, and then having to reship to these points.

Q. Yes.

A. Whether a consideration for the saving of waste in transportation was part of it or not, I cannot say.

Q. You do not know whether part of it was——

A. Whether it was only a temporary plan to try out the thing——

Q. Whether they wanted to try this out to see if this was a more complete way of getting in touch with the customer?

A. I do not enjoy their confidence. I have never had a chance to speak with them on this proposition.

Q. You think the matter of freight may have entered into it?

A. That may have been partly a consideration.

Q. And the matter of waste?

A. That may have been a consideration also.

Q. The waste is a great feature?

A. Yes, sir; but there are many reasons for it.

Q. Give some of the reasons.

A. Well, one of the principal elements of waste is a miscalculation in advance of the popular demand.

Q. That is the reason for the machinery inside that you have described?

A. We have tried to improve that. The publishers,

being human, make mistakes. We all make them, and they sometimes are over-sanguine in expectation of sales, and they have to print a long while in advance of issuance, and under conditions where, at the point of manufacture, they are very different from those which exist at the point of sale, and, therefore, it is a variable question always.

Q. And you have made great efforts, as I understand it, to try to reduce that?

A. That is our constant aim.

Q. As a matter of fact, you have been successful in reducing it somewhat, have you not?

A. I should say so, yes, sir.

Q. In the case of "Every Week," what would be the percentage of waste—do you know that?

A. At the present time?

Q. Yes.

A. I should think probably 25 per cent.

Q. Sometimes—take four years ago—the waste would be greater?

A. Yes; the publisher was indifferent as to the waste. He was willing to pay for notoriety and publicity by that waste, instead of advertising—which would be another way of accomplishing it, which would have cost a great deal more.

Q. At one time you handled the Curtis publications?

A. We handle them still.

Q. To some extent?

A. Oh, a very considerable extent.

Q. You handled them on a non-returnable basis?

A. Yes, sir.

Q. There was a time when you handled them on a returnable basis?

A. Yes, sir.

Q. Do you know anything about the waste when you were handling them on a returnable basis?

A. Yes, sir.

Q. Do you know why they changed?

A. Yes; I made the agreement, and Mr. Farrelly, who was my predecessor, living there at the time, we made it together with the Curtis Company. There was, of course, a considerable waste. It was eliminated almost altogether.

Q. How was it at first?

A. Well, you are going back twenty-five or thirty years.

Q. Ten years, or five years ago?

A. Ten years ago or five years ago it was on a non-returnable basis.

Q. I am speaking now of the returnable basis—the time it was on a returnable basis.

A. That is fifteen years ago at least.

Q. Just prior to the time it became non-returnable?

A. You would have to go back ten or fifteen years, to go back to the time when it was on a returnable basis.

Q. About what was the waste then?

A. By a process of adjustment and regulation of orders in our establishment and in the various establishments all over the country, but directly, we think, owing to the increasing demand for a good publication, the waste was almost eliminated. At the time when it was discontinued and the return privilege given up altogether, I told the Curtis people it was foolish to give up the returnable privilege when it cost them so little. It cost them but two or three cents. I thought it was a good advertisement for them to have it on the returnable basis.

Q. As a matter of fact, when you made the new arrangement, you did have a consultation with the Curtis Publishing Company or someone representing the Curtis Publishing Company about that matter,

and that was one of the things that entered into the change?

A. Not so far as I know.

MR. WELCH: I object to Mr. Johnson testifying as to what entered the mind of the Curtis Publishing Company.

MR. DALY: He said they talked about this matter of waste.

THE WITNESS: The waste was trifling.

By MR. DALY:

Q. Have you not stated that the waste entered into this matter and you talked with them about it?

A. Of course, we had to discuss the matter of a change of policy——

Q. When you made the change, what took place? I do not want anything else.

A. I know that, Mr. Daly, but I am trying to think of what happened fifteen years ago, in answering your question, without any expectation of being asked it. I am trying to give a truthful answer.

Q. Yes; I think you want to give it.

A. I think the owners of "The Ladies' Home Journal"—that was the periodical in those days; I do not think the "Post" was in the field, or it was just about coming into the field when this was first talked about—"The Ladies' Home Journal" had a large advertising patronage, and I think they felt or desired to claim that every printed copy was sold, and the return records had been kept for a long time, and the return percentages were merely nominal—two or three or five per cent—trifling, and my contention was then—and it would be with any publisher thinking of going into the non-returnable basis—that it would be foolish to give up the returnable basis privilege. I think, however, they wished to be able to say that every printed copy was sold, and they wiped out the waste. That is my best recollection of the occurrence.

Q. Now, take some other magazines—take the "Century," for instance. I think you have testified about that.

A. I do not think I said anything about the "Century," Mr. Daly.

Q. Was not that put in the record this morning?

MR. WELCH: That he handled the "Century" thirty years ago.

By MR. DALY:

Q. And you still handle it?

A. Yes, sir.

Q. How about the waste in connection with the "Century Magazine"—is that a reasonable amount? Do you handle it on a returnable or non-returnable basis?

A. On the returnable basis. The higher price the periodical, the larger the waste, provided the publisher, as is always the case, desires to have such a representation of his periodical sent out as will influence advertising. Advertising is, of course, what the publishers are after, and the publisher of a very important periodical or one which only has a limited sale, still wishes to have his periodical sent everywhere that the larger publications are sent, and, of course, he is contented with the percentage of waste that would not exist under ordinary circumstances. I have no doubt that the waste or the percentage of returns on such periodicals as the "Century," "Scribner's," "Harper's," etc., would be in the neighborhood of 30 per cent.

Q. But you think they are willing to stand that waste for the reason that more people see them and it is part of an advertising plan?

A. I presume that is their idea; I am not interested in any periodical and I do not know what their real reasons are.

Q. The "Century" is a twenty-five-cent magazine, is it not?

A. Thirty-five cents. It has recently been increased to thirty-five cents.

Q. Now, in this case of a thirty-five-cent magazine like the "Century" that would, I presume, cover the cost of the magazine?

A. Thirty-five cents is the retail price.

Q. That would cover the cost of the magazine to the public?

A. I do not know what it costs to manufacture a magazine, Mr. Daly. I am not a publisher, you know.

Q. You are not sufficiently experienced to be able to tell that?

A. I do not know anything about the cost of manufacturing, Mr. Daly; that is all.

Q. Now, did I ask you clearly whether the "Every Week" changed its method of doing business—I think I covered that.

MR. WELCH: What was the question?

MR. DALY: I wanted to know why the "Every Week" changed its policy of doing business—they did do that, did they not?

THE WITNESS: Yes; I think that change became operative last autumn, to the best of my recollection.

By MR. DALY:

Q. You were in touch with them, were you not?

A. Personally not in touch with them.

Q. You heard about it?

A. I heard about it through my own people, when I came to New York, but I had nothing to do with the negotiations.

Q. What were the negotiations?

A. I do not know about that.

Q. You do not know what your officers told you in that respect?

A. Well, nothing especially was told me relative

to it. I suppose I could have found out about it, but, handling 400 periodicals, as we do, "Every Week" is simply one of them.

Q. Now, then, "Collier's" used to use your system, did they not?

A. A long time ago; yes. I am not aware that we have it exclusively.

Q. Exactly when was it they ceased to deal with you?

A. That I could not say.

Q. Do you know why they left?

A. I do not. I could suppose, but you do not want any supposition. I really do not know. I knew that "Collier's," for a long time, was sold in connection with book schemes of Mr. Pat Collier.

Q. You do not know that, do you?

A. I know that that was the case.

Q. You do not know why they left?

A. No; I do not know that.

Q. "The Literary Digest" went through your organization, did it not?

A. Yes, sir.

Q. And it left you?

A. Not altogether—no.

Q. Well, in what respect?

A. We are selling still a large quantity of it every week.

Q. When did this new arrangement go into effect?

A. I may have a note about that, Mr. Daly, if you will allow me to refer to it. It is just about a year ago, Mr. Daly.

Q. Do you know why that change was made?

A. No; I suppose——

Q. Do not suppose about this. Just testify about what you know.

A. I could not know why the change was made unless I knew the minds of the publishers.

Q. You do not know?

A. No, sir; but I could give you some figures.

Q. I do not want any figures.

A. The publication made a surprising increase in circulation during those years. I do not know why they left; no.

MR. DALY: I ask that that be stricken out. That is not an answer to my question.

By MR. DALY:

Q. What were you distributing for "The Literary Digest" prior to the time that they made this change—do you know?

A. The last order I have was March, 1917, 156,000.

Q. That was per week?

A. Yes, sir; that is a weekly publication—published every week; yes, sir.

Q. How many are you distributing now?

A. Sixty-two thousand.

Q. You are not distributing all of them now?

A. No, sir; we never did. There was always a large subscription sale.

Q. Before they broke away from you, are you able to give the returnable figures?

A. That is not available to me.

Q. The "Pictorial Review" left your company, did it not?

A. Yes, sir.

Q. When did it leave?

A. In March or April, 1917.

Q. Do you know the reasons why it broke away?

A. Why——

Q. If you know, now.

A. I do not know anything for testimony. I have my opinion.

Q. You were not in those negotiations?

A. No, sir; I was not personally in the negotia-

tions. I suppose they were dissatisfied with our service, and thought they were not getting enough circulation.

Q. Was it not discussed in your meetings of your board of directors?

A. The fact they were going to sell direct to the trade was discussed, but that would be a matter for the general manager's office.

Q. Now, as a matter of fact, do you know, Mr. Johnson, whether the "Literary Digest" broke away in order that it might increase its circulation?

A. I suppose that would be a very natural reason —not because they thought they would get less circulation, at least. They wanted more circulation and probably thought they could get it that way. That would be a matter for them to determine.

Q. Do you know why the Curtis publications broke away on "The Ladies' Home Journal"?

A. I do not know what was in their minds on the subject, but I think I could give a very good answer to that.

Q. Well, let us have that.

A. We had been very successful in selling "The Ladies' Home Journal," and our sales had reached 600,000 copies per month, and their purchase of "The Saturday Evening Post" had brought them on the field with a weekly publication. I think they felt they could not secure through us rapidly enough a great sale for "The Saturday Evening Post." I think we had secured it for the "Journal," but that was a monthly publication, and a weekly publication at that time we were not selling any to amount to anything. This "Saturday Evening Post" was a weekly publication, and I think they felt that they had to get a more rapid circulation for it than we could get for them, or than any one could get for them, and they had to sell through an independent group of distributors, and they

turned "The Saturday Evening Post" over to those people to sell. This is merely an assumption on my part. I have never had any conversation with them on the subject, and they let the "Journal" go along with "The Saturday Evening Post" in order to help support those people. That is my idea about it.

Q. You could handle a monthly publication more advantageously than a weekly publication?

A. The more frequently they are published the more they are sitting on top of your head.

Q. In the case of "Every Week," it would be more difficult to obtain an intensive circulation for that than something that is not published so frequently?

A. There is a greater turnover.

Q. Could these men that you are sending out do as effective work for a weekly as a monthly publication?

A. I presume so.

Q. Could you give me the territory covered by these roadmen? Would there be any way of describing them without first getting the actual territory covered, as I understand it, by these different subsidiary agencies?

A. The men in New England are ranging over the country; whenever we have a delivery branch—and I want to set myself straight in the record as to the number of these branches. You spoke about twenty-one. I spoke about thirty-five or forty. I have included in my figures, evidently, the deliveries in New York City, of which there are quite a good many apart from our branches; for example, the American News Company has a number of deliveries uptown. New York being a great place, it is about the same as if they were country deliveries. They are in the upper part of the city, and some in Brooklyn also. Where we have branch deliveries, those resident agents, in

their motor cars run out into these cities and villages. For instance, Harrisburg would have a list of probably a dozen towns, which he would reach for promotive and other purposes, in territory contiguous to Harrisburg.

Q. And that would be the same with other places?

A. Yes, sir—and he would extend his sphere of influence.

Q. Now, these men you send out—have you any idea how frequently they visit the retailers?

A. In the city they would see the dealers—our drivers——

A. Well, not the drivers, but the men?

A. The promotion men——

Q. Yes; how often would they go out through Pennsylvania, for instance, with which you are familiar?

A. Well, the man I have just told you of, who has just gone to the war, had a regular route, and he would go around on it. Perhaps he would go to Johnstown, perhaps two or three times a year, and perhaps Wilkes-Barre and Harrisburg, before the branch was established, once a week, and Reading once a week, and so forth, as far as one man could cover it. It has been found that if you visit the dealers too frequently you bore them to death.

Q. These promotion men are not at all in daily touch with the retailers?

A. Not one-half daily.

Q. Nor weekly, for that matter, are they?

A. Occasional touch.

Q. That is all?

A. Yes, sir; that is true.

Q. Outside of the territory of these subsidiary agencies, they are not in touch with the dealer at all, are they?

A. Well, if you mean by "in touch," going and touching them, no.

Q. I mean seeing them and speaking to them. I understand they are connected with the subsidiaries and do not travel out.

A. Those dealers would be handled to better effect by examining, with care, the returns of unsold copies.

Q. What I want to get at is this, Mr. Johnson; there is no one who sees them, outside of the territory of your subsidiary branches, to ascertain whether they are stocked—overstocked or understocked—with magazines?

A. No; only occasionally, but we have to get the evidence by an examination of the returns.

Q. Simply through the machinery of your office?

A. That is more effective than visiting them.

Q. Did you ever try the visiting plan?

A. Oh, yes.

Q. When?

A. Personally, you mean?

Q. No; your men.

A. I testified we have forty or fifty men.

Q. Outside of the subsidiary territory?

A. I have in mind, as you ask, this man J. H. Miller, whom I refer to as having gone to the war. It was very efficient service, and we found in actual operation he goes to a dealer this week and next week, and it does not require such frequent visitation. There is very little to say or do when he goes there. As it were, a considerable part of it is waste work.

Q. He was the only one you had in that line?

A. By no means; I cannot say how many, but up through the New England district, we have men out occasionally. We have a man who is chief promotion man, who opens these subsidiary branches.

Q. I am speaking outside of the territory of all the subsidiary branches?

A. Yes.

Q. What do they do there?

A. There are a great many dealers, in short, who are never visited by any one. I am quite willing to admit that.

Q. One more question, Mr. Johnson, and I am through. Now, whenever you open a new branch, you get new dealers, do you not, in that way? You get in touch with new dealers, many of whom have been getting no supplies?

A. Well, new dealers are developed, of course. The nearer the source of supply is to them probably the more dealers there will be developed. There is such a thing as having too many dealers.

Q. I did not ask that. That is not an answer to my question. Now, this scientific plan you have within the organization, to try to hold down your waste, that is operated on a sixty-day basis, is it not? You would find out in sixty days what each dealer was doing?

A. The returns are so much delayed that it would be difficult, at times, to do it. Sometimes it might be more than that——

Q. There might be instances of that kind?

A. Oh, yes.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. What do you understand Mr. Daly to mean by "sixty-day periods"?

A. I assume he means after sixty days they have not the returnable privilege; that after that they would not have the privilege.

Q. That is right. About these branch distributing points that you were asked about, how many do you think there were put in, just approximately, since January, 1917?

A. Since 1917?

Q. Yes. That would be within the last year and a half.

A. I should say half a dozen.

Q. Half a dozen?

A. Yes, I should say so, but it is something that is going on all the time, and being gradually developed.

Q. They are constantly being extended?

A. They are constantly being extended; yes, sir.

Q. To other places?

A. Yes, sir; we have a long list of places that ultimately we shall develop when we can find men to put in them. It is a very difficult thing to do.

Q. But during the past year and a half, you think about half a dozen have been put in?

A. Yes.

Q. And the others were in existence prior to that and for some years back?

A. Yes, sir; some of them for fifteen years.

Q. Now, a question was asked you as to whether these forty or fifty men who operated in the territory of your branches and delivery branches have got in touch with the small dealers, and you said not by actually touching them — by communicating with them and in that way. Are those dealers reached in any way by these men?

A. Those small dealers in the country places?

Q. Yes.

A. No; it would not justify any one in reaching them. Take the little town of Warwick, where I live in the summer——

Q. What do you mean—

A. There is a more efficient means of reaching them.

Q. What do you mean by a more efficient means of reaching them?

A. That could only be applied to publications that are returnable; that is, by such a critical examination of those unsold copies as to form an indication as to what the dealer's situation is, whether he is sold out, whether he has had too much, or so on. It is a very efficient system and being gradually developed all the time.

Q. How do you get the returns of unsold copies from the small dealers? How do you determine what the returns are from the small dealers?

A. We take down the returns of unsold copies, and by dividing the various publications up in various dates for each publication, and so forth, we contrast those with the original distribution of that number and in that way find out what have been sold. It is a very slow and laborious and costly way, but it seems to be the only way.

Q. That service and the general promotive service that you have testified about, you say are not included in any agreement in terms, did you not?

A. I did.

Q. That service is applied to all magazines equally, I presume, is it not?

A. Those which are circulated in sufficient quantities so as to have the figures, and that are produced in sufficiently large number to permit the making of percentages on—there are many periodicals that are circulated in such small numbers that it is impossible to make up any percentages on them.

Q. There is no extra charge or cost to the publisher for that promotive service?

A. Not that I am aware of. There is no charge whatever. I am not aware that there has been any proposition on the part of the publishers to compensate the American News Company for it. Such a sum certainly has not been asked for on our part.

Q. I wish you would explain, Mr. Johnson, what you mean by your statement that the circulation of "Every Week" in Philadelphia, when it started, circulating through the News Company, was 35,000. Did you mean by that that was the amount of sales, or that that was merely the quantity issued by "Every Week"?

A. That was simply the issuance, an arbitrary figure, decided upon for the purpose of making the publication, I fancy, thoroughly known.

Q. Could you state about what the net sales were of that 35,000, at the very beginning?

A. At the very beginning?

Q. Yes; aproximately.

A. I should say not more than 10,000. I thought we were doing a wonderful thing when we were doing that. I should think, as far as I can remember—it is often found of a worthy publication, no matter how many you put out, you can sell, by efficient distribution, nearly half at first.

Q. Prior to that, "Every Week" had been given away?

A. Yes, sir; as a supplement to Sunday newspapers.

Q. Did you take it first as a paid periodical?

A. Yes, sir; there came a Sunday when it ceased to be a part of the "Philadelphia Press," and the next week we tried to sell it.

Q. And the sales in the beginning, you think, amounted to about 10,000?

A. Yes, sir; I judge of it from two points of view. The sale of the "Sunday Press" was seriously affected when it lost this supplement, and I was selling the "Philadelphia Sunday Press," and their order went down 6000 or 8000 copies right away, and I fancied from that, and the trade generally inferred, that the people cut off the "Sunday Press" because they had

been buying it for the sake of "Every Week" that was in it.

Q. Mr. Johnston, with respect to these road men of yours, and the men that are traveling around that you have spoken of—the forty to fifty—they are in touch with the retail dealers outside of the cities where these branches and subsidiaries are located?

A. Yes, sir; with portions of them—not all of them.

Q. But their activities are not confined merely to the cities and branch cities that the——

A. No, sir.

Q. (Continuing) —that the company distributes from?

A. No, sir; we have several classes of men selling various classes of merchandise, and we are all the time insisting that these men all boom all parts of our business whether they be periodicals or stationery and books.

Q. Now, with respect to the retail dealers that they do not personally see, do they communicate with them by telephone or letter, or get in touch with them in any way? I am not speaking merely of small ones, but I am speaking of the general retail dealers; that is, outside of the territory that these men cover by personal investigation?

A. We are corresponding with these people from our main branch houses all the time. They are answering letters and sending them advertising matter, and sending them posters and circulars and weekly bulletins, and our house organ, and in various ways we are keeping, you might say, in touch with them. It is not the touch of a personal hand, because, as I have said before, these dealers in the small country towns, and in villages, of which there are so many scattered all over the United States—it would not pay anyone; they do not do business enough. There is not business

enough in the towns. The readers are supplied by subscription in those towns, to a large extent, and if you went there with the idea of developing a large periodical and magazine business in those villages you would be mistaken and would be wasting your money and time.

Q. You did not mean to be understood then saying that as to retail dealers outside of the particular territory that these forty or fifty road men traveled, there was no communication between the American News Company and these men?

A. No, of course not.

Q. That is what I wanted to get straight on the record. Now, you testified, Mr. Johnson, that the percentage of waste on "Every Week" was about twenty-five per cent.?

A. To the best of my knowledge.

Q. And at the time "The Ladies' Home Journal" ceased to circulate exclusively through the American News Company, the waste was about two or three per cent.?

A. It goes down as low as two and three per cent. Five per cent. was common.

Q. The same service is given to "Every Week" now as was given to "The Ladies' Home Journal" at that time by the news company; is not that a fact?

A. Yes; except that one was a weekly and the other is a monthly, you know. One periodical was larger in a superficial area, and, it had more attention and space on the newsstands.

Q. So having the same service and taking every consideration, what you have just stated, any difference in the percentage of waste would be due to the difference in the appeal of these two papers respectively to the public?

MR. DALY: I object to the counsel testifying. He can ask him the question about it.

By Mr. Welch:

Q. What have you to say, Mr. Johnson, as explanatory in any way of the difference in the percentage of waste between the two magazines, the "Every Week" and "The Ladies' Home Journal," that you were speaking about?

A. We are taking "The Ladies' Home Journal" towards the culmination of a period in its career, during which a great deal of work had been done, and by going back further, you would find quite heavy returns in the initial days of their distribution. I think I recall the first order placed with them for 2500 copies of "The Ladies' Home Journal," when it was only a five-cent periodical. Then, after that it was developed and the returns were gradually reduced, by careful handling, by the merits of the periodical, until it got down to a final stage where there was almost no return at all. "Every Week" is comparatively new, and has to make its way, and the publishers are no doubt experimenting with it, endeavoring to bring it into the highly successful class. One is new and the other is a proved success.

Q. In speaking of the "Literary Digest," in answer to one of Mr. Daly's questions, you said that you had some figures with respect to the work you had done for them, and the increase in the circulation you obtained?

Mr. Daly: In what case is that?

Mr. Welsh: "The Literary Digest."

By Mr. Welch:

Q. Mr. Daly did not care to have it at that time. Will you state what you had in mind?

A. I have some figures that I prepared with reference to "Literary Digest." March 28, 1912, it was not returnable, and our order was 8650 copies. May 12, 1912, a little later it was made returnable, and the output was 18,000 copies. I would not say that that was

an increase in the sales to that amount at all, but that was the beginning of an enterprise to push this periodical forward and more copies were sent out. In March, 1914, 23,116; March, 1916, 100,000; March, 1917, 156,000. That was weekly, and our order at the present time, as I testified, is now 62,000; so that we lost when the change was made sixty per cent. of our orders, although probably more than that, because the 156,000 was on a returnable basis, whereas the 62,000 is not.

Q. The March, 1917, figure was 156,000?

A. One hundred and fifty-six thousand. April 1, 1917, I think I testified was not returnable; and our order now, April, 1918, is 62,000.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. When was it they broke away?

A. I think one year ago, Mr. Daly, I testified.

Q. I think you put that in the record?

A. I think it is in.

Q. Can you testify that that increase that you put in the record, was due to the 1917—the 1917 increase was due to the efficiency of your organization?

A. I will be modest. I will say it was chiefly due to the merits of the periodical.

Q. War articles and so on naturally increase?

A. Yes; that was the reason of it.

By MR. WELCH:

Q. Your methods certainly contributed?

A. They no doubt helped.

By MR. DALY:

Q. As a matter of fact, they made a special effort, did they not, by advertising in newspapers?

A. Yes; and we made a special push with it. We realized that it was a reasonable periodical, a period-

ical particularly adapted to the times, and the two things went along hand in hand.

Q. Do you know what their circulation is now—their independent circulation?

A. No; I do not.

Q. These men that you spoke about, you said that some of them pushed the sale of books and other publications—numerous publications?

A. All in our employ.

Q. But they interest themselves in the handling of books, getting out of books as well as magazines; don't they?

A. Why, yes.

Q. What do they actually—what are they interested in?

A. They are interested in anything the American News Company sells.

Q. You sell large numbers of books?

A. Large numbers of books and large quantities of stationery.

Q. What else besides books and magazines?

A. Wholesale stationery, post-cards, periodicals, and in some few cities, newspapers.

Q. And on these trips, they are giving their attention to these various matters?

A. Yes; they are supposed to interest themselves in the sale of everything we handle.

Q. How many magazines do you handle?

A. As I have already testified, somewhere around 400, but it might vary.

EXAMINER MOORE: Is that all, Mr. Daly?

MR. DALY: Yes.

MR. WELCH: That is all.

EXAMINER MOORE: We will take a recess until 2.30.

(Whereupon at 1.45 o'clock P. M., a recess was taken until 2 P. M.)

AFTER RECESS.

ROSCOE PEACOCK, called as a witness on behalf of the respondent, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Peacock, you are connected now with the Curtis Publishing Company, are you not?

A. I am.

Q. What is your position with them?

A. Circulation manager.

Q. How long have you been connected with the Curtis Publishing Company as circulation manager?

A. Since about the middle of September, 1916.

Q. What connections did you have before that, in the magazine business?

A. Prior to that, I was connected in a promotion way with the so-called mass group of magazines, "Vogue," "Vanity Fair" and a couple of others.

Q. For how long?

A. For something less than a year. Before that, I was circulation manager of the group called Hearst group of magazines, consisting of "Cosmopolitan," "Good Housekeeping," "Hearst's," "Harper's Bazaar," "Motor and Motor Boating," for a period of about six years, and before that I was agency manager and circulation manager of "Success Magazine" for about eight years.

Q. When did you cease your connection with "Success Magazine"?

A. Well, I can't remember the exact date, but it was about, I should say eight or nine years ago—about eight years ago.

Q. Is the sales division of which Mr. Douglas has testified as manager, a branch of your general department?

A. Yes; that is one of several divisions that go to make up the entire department.

Q. Now, Mr. McKinnon testified, his testimony appearing at pages 124 and 125 of the record, that he had a conversation with you in New York in October, 1916. Do you recall having that conversation with him?

A. I do.

Q. He testified after that, his testimony appearing at page 478, to an additional, or other version of that conversation. Have you read his testimony as given at that page of the record?

A. Yes.

Q. Do you recall any such conversation with Mr. McKinnon, as given at that time?

A. I have no recollection of what you call the second version—second account.

Q. Now, when you talked to Mr. McKinnon on October 2d—what date did you talk to Mr. McKinnon in October, 1916, do you remember?

A. October 2d.

Q. When you had that talk with him, it was a very general conversation, was it not?

A. Why, we had attended a circulation managers' meeting that day, which happened to be held here in Mr. McKinnon's office, and when the meeting was over he asked me if I would not go over to his office with him, that he wanted to talk about something over there, and I went over with him.

Q. Well, now, did Mr. McKinnon say anything to you at that time about having any idea or making any effort of going after the Curtis district agents exclusively for the distribution of his magazines?

A. He said that he was considering the possibilities of an independent distribution; that is, of giving up the exclusive distribution or newsstand sale through the American News Company, and wanted to know what the Curtis Company's attitude would be, but noth-

ing was said indicating that he was going after Curtis agents exclusively, or anything of that sort.

Q. Now, at page 129 of the record, Mr. McKinnon testified to a telephone conversation he had with you, with respect of Baron & Molasky at St. Louis. Briefly, what was that conversation that you had?

A. Why, I had received a letter from Mr. McKinnon on February 12th, I believe, stating very briefly that he had broken away from the American News Company, and I think it was on the same day he called me on the long distance 'phone and told me that he had made an effiort, or an effort had been made to get Baron & Molasky, our wholesale agents at St. Louis, to handle the "Pictorial Review" and that this firm had——

By Mr. Daly:

Q. What was it he said?

A. He stated that "Pictorial Review" had made an effort to get Baron & Molasky in St. Louis to handle "Pictorial Review," on this independent distribution, and that Mr. Douglas had communicated with them in some way, refusing to permit them to handle it, and wanted to know about it.

By Mr. Welch:

Q. What did you say to him at that time?

A. Why, I reminded him that I had been there a very short time, and I wanted to talk it over with Mr. Douglas first, to see if he had sent such a message, and then what the circumstances were.

Q. At that time did you have any indication from Mr. McKinnon that he was going to make any special effort to get Curtis district agents, as a whole?

A. No statement to that effect.

Q. Then, after that, you wrote him two letters on February 13th and February 16th, which have been put in evidence?

A. Yes.

Q. At the time you had that conversation with him over the telephone, and at the time you wrote these two letters, did you know of any boy activities that were taking place on the part of the "Pictorial Review"? That is, efforts to get sales, through boys?

A. I did not.

Q. When did you first know of any such activities on the part of the "Pictorial Review"?

A. Why, my first knowledge came in a conference that I had with Mr. Collins and Mr. Douglas, about February 20th, as nearly as I can determine the date, as to what our attitude should finally be in regard to the "Pictorial." Up to that time there had been no general understanding or decision about it. I believe Mr. Douglas presented letters or copies of letters that "Pictorial" had sent to several district agents, urging them to sell the "Pictorial" through the boys.

Q. Will you look at page 439 of the record, respondent's Exhibit No. 4, and several succeeding pages, respondent's Exhibits Nos. 5 and 6, which contain letters of a similar character, and state whether that was the form of the letter that you saw at that time?

A. Yes.

Q. Those are the letters that you have reference to?

A. Yes.

Q. You had not seen anything of those letters and knew nothing about them, at the time you wrote your letters of February 13th and February 16th, which are in evidence?

A. Not that I recollect.

MR. DALY: What was the page of that record, do you know?

MR. WELCH: Four hundred and thirty-nine and subsequent pages.

By Mr. Welch:

Q. Did you about that time, February 20, that you had this conference, get any information about any co-operation of other magazine publishers, in any independent distribution plan?

A. I had heard in various ways about that plan that there was a movement on foot, in which Mr. McKinnon was quite active, involving some fifteen or twenty magazines, to form some kind of a company to handle an independent distribution of these magazines.

Q. When was that you heard that in any definite form?

A. Why, it is a little bit difficult to fix the exact date. I had talked with Mr. Byoir, who was then circulation manager of the Hearst group of magazines, who told me that he had attended some meeting or meetings of these parties, called for that purpose, and I had also heard the same thing from Mr. O. B. Capen, who was connected with the "Popular Science Monthly," and a Mr. Harrington of the "Motion Picture Magazine," and a Mr. Bresnahan who had been circulation manager of "Every Week," and prior to that of the Butterick group of magazines, or to the effect that these meetings had been held and the possibilities of independent distribution discussed.

Q. Did that information all come after your conversation with Mr. McKinnon in October, and your telephone conversation with him in February?

A. It was in the interim. I don't remember the exact dates.

Q. Did you continue to hear that talk of that plan, up till the time that you wrote your letters, or after you wrote your letters of February 13th and 16th?

A. Yes, sir.

Q. Did you know at that time, speaking now of the

time that you had the conversation that you spoke with Mr. Douglas about—February 20th, was it not?

A. Yes.

Q. Did you know anything at that time of a circular letter that had been sent out by Mr. McKinnon, which is "Exhibit U," Commission's "Exhibit U," which I show you at page 193 of the record?

A. No.

Q. When did you first know about that?

A. My earliest recollection of seeing a copy of that letter was when we were discussing this whole matter in your office.

Q. About when was that?

A. That must have been about——

Q. Some months after the conversation with Mr. Douglas on February 20th?

A. Yes; I think it must have been in April or May, thereabouts.

Q. Mr. Peacock, there has been a good deal of testimony in this case about the "National Post" and the "Success Magazine." Were you connected with the "Success Magazine" during the time that it was being circulated through the news company?

A. Yes, sir.

Q. Will you just state what your connection was with the "Success Magazine" and why you left it?

A. I was for several years manager of agents—canvassing agents; then for about a year and a half thereafter as circulation manager.

By Mr. Daly:

Q. When was that?

A. I cannot fix the exact date, Mr. Daly. It was about eight years ago, as nearly as I can recollect offhand. It was about a year and a half prior to the suspension of "Success Magazine" that I left it, and my chief reason for leaving was not because of any matter of compensation. It was chiefly because I found it so difficult to get money——

MR. DALY: Well, did you ask for that?

MR. WELCH: Yes, I did.

THE WITNESS (Continuing): To carry on the activities of the circulation department.

By MR. WELCH:

Q. Now, did the "Success Magazine"—was it the Success Magazine Company?

A. The Success Company was the legal title.

Q. Did that publish the "National Post Magazine"?

A. It did, but after I left. That was after I left.

Q. What magazine did it publish while you were with it?

A. While I was with it, "Success Magazine" only.

Q. Well, now, the time that you were with it was prior to the time that the "National Post" made some effort to distribute through the certain wholesalers?

A. It was about a year and a half before the "National Post" began publication—before it began to be issued.

Q. What was the financial condition of the Success Company that published "National Post," at the time you left?

A. It was rather precarious. They were heavily in debt and could not see much daylight ahead.

Q. Do you know anything about the length of time that the "National Post" had been put out, before an effort was made to circulate it through any wholesalers?

A. My recollection is that the effort to distribute it through wholesalers, was made almost simultaneously with its start, when the Success Company started to publish it.

Q. And at that time was the Success Company in financial embarrassment?

A. No receiver had been appointed, but they were

having a hard time to raise money with which to carry on their business.

Q. Now, Mr. Peacock, to go back to the letters that you wrote in February to Mr. McKinnon, at the time you wrote those letters did you have any objection to an occasional use by the "Pictorial Review" of one of the Curtis Publishing Company's district agents?

A. Why, I stated to Mr. McKinnon, when he asked what our attitude would be in case of an effort of that kind on his part, that I was not sure; that I had been there only a few days at the time, and that, as he knew, there were cases where Curtis had not made any objection to certain district agents of theirs wholesaling other publications, but that I would, as a matter of company policy, get better information before I would attempt to commit myself on that question.

Q. As a matter of fact, when you talked about the Baron & Molasky case over the telephone, you were willing to give permission to certain district agents in certain cases you understood Mr. McKinnon might want, if the occasion came up?

A. That was the attitude.

Q. And there were certain cases, like the Baron & Molasky cases, where you would allow that?

MR. DALY: Let him testify, Mr. Welch.

THE WITNESS: There were two cases, I believe, about that time, Smyser Brothers, of Erie, Pennsylvania, were given sanction to handle "Pictorial" in a letter dated January 25, and Harry Solomon, a district agent in Cleveland, was given sanction in a letter dated January 26, both written, I believe, by Mr. Douglas, or from his division.

Q. Now, then, when this matter came up at the conference which you have testified about with Mr. Douglas and, I think you said, with Mr. Collins——

A. Yes, sir.

Q. What was that conference and what were the matters with reference to the "Pictorial Review's" activities that came up for discussion?

A. Well, I told them about—mentioned—the Baron & Molasky case; the fact I have explained to Mr. McKinnon that this district agent was one under a special——

MR. DALY: Are you telling about a conversation between Mr. Douglas and yourself, or whom?

THE WITNESS: Mr. P. S. Collins, business manager of the Curtis Publishing Company, whom I had just succeeded as circulation manager.

MR. WELCH: Never mind; do not go into that.

By MR. WELCH:

Q. After you had this talk about these special cases, like the Baron & Molasky case, was there any change in the attitude of the Curtis Publishing Company toward the "Pictorial Review" situation?

A. Well, up to that time, I do not think any of us—I certainly had not—come to any final conclusion as to what our attitude would be.

Q. Was there any definite attitude determined upon after that?

A. Yes, sir; at that conference my attention was called to these various activities, particularly the letters soliciting boy business through our district agents, and this matter of coalition of a number of publishers to establish independent distribution, and we determined to refuse sanction to any of the district agents to handle "Pictorial Review."

Q. And did you take the same attitude with respect to anybody else that was in the same coalition?

A. Yes; if I remember correctly, we mentioned

the Crowell Company in the same way; our attitude was about the same toward them.

Q. Did the letters that had been sent out that are in the record, and that referred to the "Pictorial Review," have anything to do with your changed attitude?

A. Yes, sir; I should say that that had quite a bit to do with it.

Q. Now, did it come to your attention about that time and after, that the "Pictorial Review" were making an effort—the Crowell Publishing Company also were making an effort to get the services of your entire organization of boys and district agents?

A. Why——

MR. DALY: If you will ask a question, Mr. Welch—I do not want to object all the time, but the question is very leading.

By MR. WELCH:

Q. What information did you have that prompted the attitude that the Curtis Publishing Company took?

A. I have explained pretty thoroughly, I think, what led up to that attitude toward the "Pictorial." As to the Crowell Company, I have been informed by Mr. Beyer, this same gentleman I referred to previously, and also by Mr. Bresnahan, I believe, as to the fact that the Crowell Company had made this present arrangement which has been referred to so often with the American News Company, whereby they were to reach wholesalers throughout the country through the News Company, and in conjunction with the News Company, and Mr. Bresnahan showed me a copy of the formal, official contract under which this distribution was to be made in this particular new way, and in that contract, if I remember correctly, special reference was made to the wholesaler appointed under the contract to get circulation and make distribution by selling through boys.

MR. DALY: Now, what contract are you talking about?

THE WITNESS: I am talking about the contract——

MR. DALY: Between the American News Company and the Crowell Publishing Company?

THE WITNESS: I believe the relations of the American News Company and the Crowell Company to distribute the Crowell magazines to certain publishers appointed under contract——

MR. DALY: Have you that contract?

MR. DOUGLAS: I do not know whether I have one here or not. If not, we will supply one.

MR. WELCH: I think we have one.

THE WITNESS: That contract copy I saw seemed to be authentic, and I have no reason to doubt the correctness of it.

MR. DOUGLAS: We had a bunch of them.

THE WITNESS: The Crowell Company was also one of the magazine enterprises forming a part of these people, that had been holding meetings with a view to establishing a joint independent distribution.

By MR. WELCH:

Q. State everything there was that led to the changed attitude of the Curtis Publishing Company in refusing permission to its district agents to wholesale "Pictorial" and Crowell publications.

A. I think I have covered the most important elements, although there were other minor elements that made it seem to us that their activities or dealings with our district agents would be generally objectionable.

Q. Such as what? Can you recall any matters of that character? I do not mean specific instances, now. You can give those if Mr. Daly wants them, but I mean just generally what were those other matters?

A. I do not know that I can recall anything specifically. It was more the general atmosphere that had been created by the things I have already testified about.

Q. State again, Mr. Peacock, what this contract that the Crowell Publishing Company made was——

A. It was a contract——

MR. DALY: He is not going to testify what the contract was, is he?

MR. WELCH: No; with whom it was made.

THE WITNESS: It was made by the Crowell Publishing Company with whoever was to act as the local wholesale distributor.

By MR. WELCH:

Q. Do you know where the copies of that contract that you saw came from? Did it come from any one in the Curtis organization?

A. Mr. Brenahan had these copies in his possession. I did not know where he got them.

Q. Now, it appears in Mr. McKinnon's testimony that a number of magazines were circulated through the American News Company—the names are given there. Have you figures showing the circulations of those various magazines mentioned by Mr. McKinnon as being circulated through the American News Company?

A. I have a list here of magazines circulated through the American News Company, which I think includes all that Mr. McKinnon listed. Whether there are others, I am not sure.

Q. Will you state what the circulations of the magazines which Mr. McKinnon mentioned on his cross-examination are?

A. The list I have here is "McClure's," 489,069.

MR. DALY: Per week or month?

A. Per month, that is.

MR. DALY: How do you know this?

THE WITNESS: These figures are gathered from two sources, principally from the latest available statement of the Auditing Bureau of Circulations. That is an organization with headquarters in Chicago, which audits the circulations of these various leading magazines.

MR. DALY: Is this newsstand circulation?

A. It is the total circulation. It is not the newsstand circulation. I have no way of determining that.

MR. DALY: You are not giving what the American News Company circulates?

A. No, sir; I am giving the total circulation.

MR. DALY: Unless that is the newsstand circulation, I do not know what that will show.

MR. WELCH: Mr. McKinnon has given the circulation of these magazines that have gone in through the wholesalers' distribution, and it seems to me that these magazines going through the News Company are just as material to this case.

MR. DALY: You are trying to show, as I understand it, the efficiency of the American News Company—is that correct?

MR. WELCH: I am trying to show that the circulation of these magazines is, the circulation of the magazines going through the American News Company. Furthermore, Mr. McKinnon testified that all magazines of any considerable circulation went through wholesale distributors, and I propose to show that there are many magazines that went through the American News Company, and that they have a large circulation.

MR. DALY: I have no objection to that if he can afterwards give the newsstand sales.

THE WITNESS: In a few cases, where there was no A. B. C. statement, the authority is the N. W. Ayer & Company, an advertising agency

which gets out an annual directory giving the circulation of the magazines of the country. The magazines and the circulations are as follows:

Atlantic Monthly, 72,355 per issue.
MR. WELCH: Start with McClures.
THE WITNESS:

McClure's,	289,069
Atlantic Monthly,	72,355
World's Work	127,352
Blue Book,	175,000
Ainslee's,	230,706
Review of Reviews,	254,379
Century Magazine,	63,796
Christian Herald,	290,827
Harper's,	103,218
Life,	146,995
Sunset,	140,000
Green Book,	60,000
Illustrated World,	120,000
Popular Mechanics,	488,171
National Sportsman,	58,422
Red Book,	372,052
House Beautiful	45,507
Judge,	137,997
Leslie's Weekly,	415,140
Metropolitan,	445,886
Popular,	372,884
Scientific American,	65,490
Scribner's,	112,624
Vanity Fair,	70,000
Vogue,	100,000
House and Garden,	35,000
Outing,	58,000
Smith's,	135,593
Top Notch,	197,938
Wide World,	76,474

People's Home Journal	976,925
Country Life in America	30,301
Garden Magazine,	22,500
John Martin's Book,	17,718
Popular Science Monthly,	207,244
Short Stories,	85,000
Boys' Life,	87,738
Current Opinion,	59,147
Film Fun,	36,179
North American Review,	23,054
Outlook,	123,772
Theater,	44,000
Travel,	30,000
Young's Magazine,	124,000
Modern Priscilla,	702,243
Today's Housewife,	1,203,275
St. Nicholas,	64,372
New Republic,	31,496
Delineator,	968,667
Etude,	220,634

MR. WELCH: That does not go through the News Company, does it?

THE WITNESS: I thought so. I never heard of any independent distribution of it.

Independent,	102,372
International Studio,	9,500
Mother's Magazine,	600,756
Bon Ton,	18,431
Bookman,	20,000
Everybody's,	488,900
System,	151,762
American Boy,	242,704
Designer,	341,691
Woman's Magazine,	227,166
Adventure,	200,000
Survey,	16,043

Billboard,	25,931
McCall's Magazine,	1,310,661
Forest and Stream,	47,500

Q. You have not got the figures on the "People's Magazine" or "Detective Story Magazine," have you?

A. I have not those in my list.

Q. Now, Mr. Peacock, in your magazine experience you have had dealings with the American News Company?

A. I have.

Q. Is the news company willing to handle any magazine on a strictly non-returnable basis?

A. I have never known of any case where they would not, and I have been associated with magazines that they did handle that way.

Q. Just state what experience in that connection you had with the "Cosmopolitan," when you were connected with the Hearst organization?

Q. When I became connected with the "Cosmopolitan," it had a total circulation of about——

By Mr. Daly:

Q. I want to ask a question before you go on with that. I want to ask him if from this same source you could give the newsstand circulation?

A. No, Mr. Daly, I do not know of any available source for such figures. These figures that I have given are a matter of more or less public record. That is, they are available to anybody.

Q. I know they are, but you said you got them from this particular auditing concern?

A. I said they came from that.

Q. Did you ask them whether or not they kept the news dealers separate?

A. As a matter of fact, I believe that as far as the audit bureau of circulation figures are concerned, it would be possible to get the newsstands. I think their audit would show that.

Q. I wish you would get that?

A. I can very easily, so far as those are concerned, but I do not think I can on anything but the A B C figures.

By Mr. Welch:

Q. Do you know from your experience in dealing with the American News Company, whether the American News Company is willing to handle any magazine on a strictly non-returnable basis?

A, As far as I know.

Q. What experience in that respect did you have with the "Cosmopolitan," when you were with the Hearst magazines?

Q. When I joined the Hearst organization, the "Cosmopolitan" had a circulation of about 450,000. That is the total circulation.

Q. That was the circulation through the American News Company?

A. And the newsstands sale was entirely through the American News Company.

Q. How much was that?

A. Four hundred and fifty thousand.

Q. When was that, do you remember?

A. Well, it is a little bit hard for me to fix the exact date.

Q. That 450,000 included subscriptions?

A. Yes; that was the total circulation. Within a period of about eighteen months, the circulation increased to over a million, and during all that time the "Cosmopolitan" newsstand sales was effected entirely through the distribution of the American News Company. Some time before the magazine was distributed independently of the American News Company, some months before it was made strictly non-returnable, the distribution, however, being handled entirely through the American News Company, and it reached a maxi-

mum circulation through the news company of about 600,000 copies.

Q. A month?

A. A month, which they told me with one exception was the largest——

By Mr. Daly:

Q. Who told you?

A. Well, to be specific, Mr. Ostendorff, the man with whom I had most of my news company dealings. He is one of their managers down there, and he told me that with one exception, this 600,000 copies they were drawing of the "Cosmopolitan," was the largest edition of any one magazine they had ever handled, and that one exception was "The Ladies' Home Journal."

By Mr. Welch:

Q. Now, how long a period was it?

A. This total was reached?

Q. Now, wait a minute. You spoke of "The Ladies' Home Journal." At the time that "The Ladies' Home Journal" reached that high figure, was that on a non-returnable basis?

A. That was also on a non-returnable basis, but the news company was handling the entire newsstand output at that time of "The Ladies' Home Journal."

Q. So that the circulation of the "Cosmopolitan" increased, according to your testimony, from 450,000 copies, including both subscription and news sales, to 600,000 newsstand sales alone, during the period that you refer to?

A. About eighteen months, yes.

Q. And during that time was it on a non-returnable basis to the news company?

A. It was on a non-returnable basis during part of that time, but the newsstand sales increased more rapidly on the non-returnable basis than it had on the returnable basis.

Mr. Welch: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, on that non-returnable basis that they at last used, then the news company stood the loss, if any were returned, rather than the Hearst company; is that correct?

A. Well, the copies were put out and if any remained unsold the news dealer would be the loser, but the percentage of return from the last returnable issue, before it was made non-returnable, through the news company, was a fraction of one per cent.

Q. I did not ask you about that. I ask that it be stricken out. Well, let it stay. Now, as a matter of fact, the news company buys the magazines, does it not, when they operate on this plan?

A. Yes.

Q. They do not act as agents, do they? They buy the magazines and sell them again, don't they?

A. Yes, sir.

Q. Now, do you know whether in this increase that you described to the "Cosmopolitan," any particular efforts were made to increase the circulation of that magazine?

A. Oh, general efforts.

Q. Well, weren't there some particular efforts at that time?

A. Do you mean now, Mr. Daly——

Q. What was done by the publishers, what was done by the news company, if anything?

A. I presume you have reference chiefly to the newsstand sale. You don't care about subscriptions?

Q. Yes; the newsstand sales.

A. Practically nothing, except from general publicity advertising of a limited amount.

Q. There was considerable of that, was there not?

A. I would not call it considerable, no. We used a little newspaper space and some magazines on subscription offers.

Q. They seem to have prospered. Isn't the Hearst group put out in large numbers, of which this is a part?

A. Yes, sir.

Q. And they also put out their newspapers in large numbers, do they not?

A. Yes.

Q. Now, the circulation increased. Now, when was it that the "Cosmopolitan" left the news company?

A. Well, it was some months after this time that I refer to.

Q. Well, when was it?

A. I cannot place that. I have not any data with me on that.

Q. You don't know about that?

A. I could find out.

Q. If you know, will you state the reason for their leaving the news company?

A. Why, it was Mr. Hearst's own idea. He called attention to the fact——

Q. Did you talk to Mr. Hearst about it?

A. Not exactly. I talked with the business manager, who in turn had talked with Mr. Hearst.

Q. Well, go ahead then.

A. The idea was that the Hearst newspapers had a great many agents wholesaling their papers throughout the country, and that this organization of wholesale newspaper agents was maintained for the newspapers, and the question arose as to why this organization could not also be utilized to circulate the magazines, something they had never handled. The thing came about through a conference that Mr. Hearst had with the publisher of the "Boston American," his New England newspaper, who urged that he be permitted to wholesale the magazines along with his newspapers, as it would strengthen his newspaper agencies, and that was the way the thing started.

Q. That was about how long ago?

A. Oh, that was about—that distribution began in May, 1913.

Q. And a great many of those wholesalers were already established in business, were they not

A. Those newspaper wholesalers?

Q. Yes.

A. Yes.

Q. And a good many of them sold magazines, too, did they not?

A. I have no information on that point.

Q. You don't know that?

A. I knew it casually after we started this distribution.

Q. What do you mean by "casually"?

A. We did not engage these agents—that is, the "Cosmopolitan" did not direct. We simply dealt with the six Hearst newspapers throughout the country; technically sold the magazines to them and they made all of the arrangements with these agents for wholesaling the magazines to the trade.

Q. Do you know whether or not while the news company had it there were any special kind of stories appearing?

A. Why, there were a lot of stories. I don't know how special they were.

Q. "Within The Law"—wasn't that during that period?

A. That was published during that period.

Q. "Common Law"?

A. "Common Law," I think you refer to.

Q. That was a very popular story, was it not?

A. A very popular story; yes, sir.

By Examiner Moore:

Q. Didn't they engage a lot of new writers about that time?

A. Why, there were some new writers, yes.

Q. Who were they?

A. Chambers was one of them, the author of this story referred to.

By Mr. Daly:

Q. Robert W. Chambers?

A. Robert W. Chambers and I believe George Randolph Chester.

Q. Do you know anything about the circulation of "Cosmopolitan," after it broke away and went into this other plan?

A. Oh, yes.

Q. Well, can you give that circulation?

A. The circulation remained, up to the time I left the "Cosmopolitan," a total of a little over a million—the total circulation.

By Mr. Welch:

Q. Are you speaking of sales?

A. I was speaking of the total circulation. It did not increase to any appreciable extent, from that time that I referred to, where they reached the million and over a million, until the time I left, but there was a slight increase in the newsstand sales; that is the newsstand edition.

By Mr. Daly:

Q. What is the circulation now

A. A little over a million, I understand.

Q. Do you know the newsstand circulation?

A. No, I do not; I have no means of knowing—at least I have not informed myself.

Q. This non-returnable feature increased the sales, you say. Is that what you want to say about this?

A. It did in that instance, yes.

Q. Does it in all intsances?

A. Well, we made several other of those six magazines non-returnable while I was there, and I think in each case our net sale was larger. I only know of those cases. I have no other information.

Q. The net sale was larger?

A. The net sale was larger, after we made it non-returnable.

Q. Now, "The Ladies' Home Journal." There is an allowance made in "The Ladies' Home Journal" to the dealers now, is there not?

A. Yes.

Q. Now, what is that allowance?

A. Why, now, at the present time, under this new contract, which is the one chiefly in vogue, there is no limit on returns.

Q. What was it before?

A. There was a percentage.

Q. Fifteen per cent?

A. About that, yes. I have not in my mind the exact terms, but about fifteen.

Q. What do you mean by saying that there is no limit to the return on the new contract?

A. Why, just that.

Q. The dealer can return any quantity; is that right?

A. Yes.

Q. Now, they take a quota under the contract, too, do they not?

A. Yes.

Q. They must take so many copies, in other words?

A. They guarantee to take a certain number of copies, yes.

Q. To sell a certain number of copies, is not that correct?

A. I would prefer to actually read that.

Q. I am speaking now of not what the contract says, but what is done under it.

A. Well, the contract is carried out, yes; he agrees to sell a certain number.

Q. Now, if he does not sell them, what does he do with them?

A. Why, he would return the covers or a portion of the cover of every unsold copy.

Q. He would be allowed that?

A. Yes.

By EXAMINER MOORE:

Q. Is that the new contract?

MR. DALY: Yes.

By MR. DALY:

Q. What is that provision in the contract for, do you know?

A. You mean the quota requirement?

Q. The quota provision.

A. Why, it is a measure of his efficiency, based on a very conservative estimate of what the territory he covers should yield in the way of sales.

Q. Now, shortly after you went with the Curtis Company, Mr. McKinnon saw you, did he not, with reference to the circulation of his paper?

A. Yes, sir.

Q. Have you a letter there from McKinnon, under date of February 12th to Mr. Peacock, with reference to this transaction?

MR. WELCH: In the record here?

MR. DALY: No.

THE WITNESS: I do not recall any such letter. Oh, a letter I received on February 12th. That is the letter that was dated February 10th, as I recall it.

By MR. DALY:

Q. Have you a copy of that letter?

A. I have not, but I can tell you almost word for word what it was, and I can produce it later. I think it is in Philadelphia.

Q. Now, in the letter that you are speaking about —the letter dated February 10th—there was an inclosure, was there not, with that?

A. I don't recall any.

Q. As a matter of fact, was not the circular or letter that is now in the record, addressed to "Mr. Live Wholesaler"—was not a copy of that included in this letter dated February 10th?

A. I don't remember it.

Q. You don't recall that?

A. No, sir; I have the letter filed in my regular file. There is nothing attached to it. It is a pen-written letter.

Q. Well, the letter notified you that he had broken away, did it not?

A. Yes, sir; very short letter.

MR. WELCH: We will get that letter.

MR. DALY: I wish you would.

By MR. DALY:

Q. What I wanted to know was whether or not this additional "Mr. Live Wholesaler"—a copy of that was not inclosed?

A. I am positive I did not get that.

Q. Now, there were three or four, or several of these papers that were planning to—these magazine publishers were planning to go out independently, were they not?

A. So I understood.

Q. And you conferred with them here in New York with reference to it?

A. No, I did not—these people, as I testified, merely gave it to me as a matter of information. There was no argument or discussion.

Q. You were all on friendly terms then, were you not?

A. Yes.

Q. And with whom did you speak about it?

A. Why, with Mr. Byoir, of the "Cosmopolitan," and Mr. Capen, of the "Popular Science Monthly."

Q. Yes; you have testified to that.

A. And Mr. Bresnahan.

Q. Was the conversation you had with Mr. Byoir and Mr. Bresnahan prior to October 3, 1916, or after?

A. I think it was afterwards, as near as I can place it.

Q. Can you about fix the time?

A. Pretty hard to do that. There is no correspondence, nothing but my recollection of having talked with them at different times.

Q. Cannot you tell when this meeting in New York was—can't you fix it from that in some way?

A. I might by referring back to correspondence, although I am not at all sure it was ever made the subject of any correspondence. It was simply on frequent trips to New York I met these men, and they gave me this information.

Q. Did they tell you why they were going to leave?

A. No; they did not make any special explanation as I recall it, simply that they were thinking of——

Q. You want to say that, do you, that he did not discuss that?

A. They simply told me that they were discussing the question of establishing an independent distribution, collectively.

Q. Without giving you any reasons why they were going to break away?

A. Without giving me any reasons, as I recall it.

Q. This letter of October 3d says: "When I last saw you—this is in the record—I talked with you about the possible attitude of the Curtis Company in case a group of publishers, including yourselves, the Crowell Company and the Metropolitan see fit to inaugurate an independent distribution." So you must have talked before October 3d; isn't that it?

A. Mr. McKinnon gave me that information at the time I talked with him on October 2d, but that was not a part of the movement that I refer to afterwards of a larger number of magazines.

Q. And you had no objections at the beginning of those talks?

A. Why, my feeling was just as I described it.

Q. Just as you said in the letter here, that in the event they went after boys, then you would be dissatisfied; is that correct?

A. Yes; my exact language, as I recall it, was that I did not think it would necessarily mean any fight between the two companies.

Q. There wasn't any secrecy about these talks or these meetings?

MR. WELCH: What talks—what meetings?

MR. DALY: These conversations among these representatives.

MR. WELCH: He said he had not had any then.

By MR. DALY:

Q. At any time?

A. I would not call it confidential, no. There seemed to be so many of them interested in this thing that it was pretty generally known.

Q. Later on, on February 13th, you wrote Mr. McKinnon again, did you not, which letter is in the record, "Exhibit S"?

A. Yes.

Q. Now, I call your attention to this phrase in the letter: "And it may well put a different face on the matter, especially when it comes to the circulation of publications which are genuine competitors, both in respect to their makeup and amount of circulation." Now, as a matter of fact, on February 13th, you had been considering the question of competition between these magazines, had you not?

A. Yes.

Q. And that had a great deal to do with this subsequent enforcement of this contract against the "Pictorial Review," did it not?

A. Why, it had a bearing. I would not say it was a major consideration.

Q. Also the "Every Week"; that was taken into consideration, was it not?

A. Yes, sir.

Q. You have testified that you were with the Success Company, is that right?

A. Yes, sir.

Q. For some period?

A. Yes.

Q. And that during that period the "National Post" was taken on?

A. No; not during the period of my employment. After I left, that was.

Q. Oh, that was after you left?

A. About eighteen months after I left.

Q. Do you know whether or not when the "National Post" was taken on, that other financial arrangements had been made to assist the Success Company? Did you know about that?

A. No; I had no information on that point.

Q. Now, when did you tell Mr. Douglas about that financial—if you did—about the financial condition of

the Success Company, if at all? Did you discuss it with him?

A. Why, I think that—yes; I think I did at the time of Mr. Welker's testimony in New York.

Q. When was that?

A. That was the first hearing. I don't remember the date—some time in December.

Q. I mean when you were operating there, did you tell Mr. Douglas anything about the financial embarrassment of this company, while you were with them?

A. No.

Q. After you went with Mr. Douglas's company, did you?

A. Yes.

Q. What did you tell him about it?

A. Why, I told him about just what I have testified to here. I told him at the time I left "Success," they were in financial trouble—in financial difficulties.

Q. How did the Success Company circulate its magazines, through the American News Company?

A. Yes; most of the time.

Q. How long did it go through the news company?

A. Oh, I imagine a matter of eight or nine years.

Q. And then they stopped that method of distribution, did they not?

A. They made an arrangement for an independent distribution toward the end of my service with the company.

Q. About that time you went with the Curtis Company, did you not?

A. No.

Q. Where did you go then?

A. "Cosmopolitan" and the other Hearst magazines.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. I want to ask you about the percentage of returns to the American News Company at the time the non-returnable basis was adopted on the "Cosmopolitan." What did you say that was?

A. At the time we made it non-returnable, it was less than one per cent.

Q. Now, you were asked a question about the new form of contract, where it called for a certain quota, and that quota is not actually sold by the agent, whether or not he is charged in any way for those copies not sold?

A. No.

Q. And that quota mentioned in the contract has nothing whatsoever to do with the question of returns?

A. No; his returns are not limited in any way by it.

Q. The returns are unlimited by the contract, and the practice followed under the contract?

A. Yes, sir.

Q. Now, Mr. Daly called your attention to your letter——

EXAMINER MOORE: Let me ask you a question there.

MR. WELCH: Yes, Mr. Examiner.

EXAMINER MOORE: The contract speaks for itself, of course.

MR. WELCH: Yes.

EXAMINER MOORE: You are not undertaking by this testimony to introduce any explanation of the contract or to change it in any way?

MR. WELCH: No; Mr. Daly asked about whether that quota being mentioned in the con-

tract, affected his returns; in other words, he seemed to have the impression that if the contract called for a quota of, say, 500, and a man sold 400, he was not allowed to return the other 100. I just wanted to make that clear.

MR. DALY: My question went to how this thing operated.

MR. WELCH: Yes; the practice under it.

MR. DALY: That was what I was trying to get at.

EXAMINER MOORE: Is there not a guarantee of the net sales?

MR. MILBURN: It might be a case of breach of contract, but it does not affect it in any other way.

MR. WELCH: It does not affect it in the matter of return privilege at all.

MR. DALY: Is this all to go into the record?

MR. WELCH: I am talking to the Examiner. I do not know whether any conversation with the Examiner should be stricken from the record or not.

By MR. WELCH:

Q. Mr. Daly referred to your letter of February 13,1917, and he read you this sentence:

"especially when it comes to the circulation of publications which are genuine competitors, both in respect to their make-up and the amount of their circulation,"

and he asked you if the fact the "Pictorial Review" was a competitor had any bearing on your attitude, and you said it had some bearing, but it was not a major consideration. I want to read you two or three other paragraphs of your letter and ask if they had an equal bearing on your attitude:

"It looks to me now as though nearly every magazine that amounts to anything is attempting

to distribute in a manner which has been confined to only two houses of first rank, namely, the Curtis and Hearst enterprises. If we acquiesce in the efforts which they make to utilize these distributors we may find that our own interests will suffer, because it is a cinch these people cannot concentrate on our propositions to the extent that they have in the past when they have got something like fifteen or twenty publications all told to worry about."

Then a little further on you say:

"The fact that these wholesalers would be making more money would not necessarily make them better agents for us if they have got to divide their attentions among so many different propositions."

Were those, generally, the considerations you had in mind at the time?

A. Yes, sir.

Q. Were there any other considerations than those mentioned in your letter that you can think of?

A. I do not think of anything other than what I have testified to.

Q. Now, I think Mr. Daly got the wrong idea about when you went with the Curtis Publishing Company. He asked you whether you had told Mr. Douglas when you went there about the financial condition of the Success Company. It was some years after you left the Success Company that you went with the Curtis Publishing Company, was it not?

A. Yes, sir; about eight years.

Q. There was nothing to bring up that matter with Mr. Douglas when you went there?

A. No, sir.

MR. DALY: When I asked that question I had

in mind he went there directly from the Success Company.

MR. WELCH: I know you did.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Now, just one more question: After you wrote that letter that Mr. Welch and I have called your attention to, and have read excerpts from, your company did take on the "'Literary Digest"?

A. You say, "our company took on the 'Literary Digest' "?

Q. I mean, gave permission for the wholesale dealers to take on the "Literary Digest"?

A. Why, I think sanction was given in some cases; yes, sir.

Q. And the "Motion Picture Magazine" was also treated in the same way, was it not?

A. I think so; I have left those things pretty much to Mr. Douglas, but I think that is correct.

Q. And the Warner publications?

A. I think so, to some extent.

Q. And the "Motion Picture Classic" was accorded that same treatment, was it not?

A. I really do not know, Mr. Daly.

Q. And all since you wrote that letter?

A. Most of them you have mentioned.

Q. In fact, all of them?

A. I do not recall that last one, that it ever came up—at least with me.

MR. DALY: That is all.

EXAMINER MOORE: We will take a recess until tomorrow morning at 10 o'clock, instead of 10.30.

(Whereupon, at 4.10 o'clock P. M., a recess was taken until tomorrow, Tuesday, April 22, 1918, at 10 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
The Curtis Publishing Company.
} Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Tuesday, April 23, 1918.

The hearings in the above entitled matter were resumed at 10.30 o'clock A. M., pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission; and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

ERNEST M. SMITH was called as a witness on behalf of the respondents, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Smith, where is you home?

A. San Francisco, California.

Q. How long have you been connected with the Curtis Company there?

A. Since 1904.

Q. Who is the district agent there now?

A. My father and I.

Q. You began with the Curtis Company in 1904; did you begin as a Curtis boy?

A. Yes, sir.

Q. And you have been connected with them ever since?

A. Yes, sir.

Q. When did your father become district agent?

A. In 1906, the time of the earthquake.

Q. You are his partner, or were, before you went into the army?

A. I am still his partner.

Q. What magazines do you handle?

A. We handle all of the Curtis magazines, the Munsey publications, the "Literary Digest" and "Pearson's."

Q. Do you handle any newspapers at all?

A. We don't handle newspapers.

Q. Are there any other magazine wholesalers in San Francisco?

A. There are seven or eight wholesalers of magazines—Egbert Brothers, the San Francisco News Company——

Q. Is the San Francisco News Company a branch of the American News Company?

A. A branch of the American News Company.

Q. What do Egbert Brothers handle?

A. "Collier's," Warner's publications and "Pictorial Review."

Q. Do they do a retail business, too?

A. No; they are wholesalers of magazines. There is Richard Rieger.

Q. What does he handle?

A. He handles chiefly foreign magazines and German magazines, up to the time of the war.

Q. You are testifying as to conditions in San Francisco up to the time that you left. You have been away from there?

A. I have been away from there about seven

months. That was the status at the time I left. I am in the United States Army Ambulance Service, and later with the training school for officers at Camp Meade.

Q. Are there wholesalers of newspapers in San Francisco?

A. There are innumerable wholesalers of newspapers in San Francisco.

Q. Are you also familiar with conditions in Oakland?

A. To a certain extent, yes.

Q. Do you know who the Curtis agent is there?

A. E. G. Neilson.

Q. Do you know any other magazine wholesaler there?

A. Egbert Brothers have an agency in Oakland also.

Q. How do they distribute their magazines?

A. Through men to whom they pay a commission for delivering their publications by automobile.

Q. How do you distribute to the dealers?

A. We distribute by automobile, by autocar and Ford.

Q. Who owns the automobiles?

A. The Curtis Publishing Company owns the autocar and we own the Ford car.

Q. You operate it?

A. We operate it; the Curtis Company owns the car.

Q. Do you also distribute through boys?

A. Yes, sir; we have some distribution through "Post" boys.

Q. How many boys have you?

A. We have 320 "Post" boys in San Francisco.

Q. What papers or magazines do they handle?

A. Only the Curtis publications.

Q. They have their own customers to whom they deliver?

A. Yes; they have their regular customers.

Q. How permanent a force is that?

A. It is rather difficult to answer. I would say about an average of two years for boys.

Q. What is the longest time the boys are in with you?

A. We have boys that have been there seven or eight years, many of them.

Q. I suppose the rest of the force is of all kinds?

A. That is it exactly.

Q. Where have you recruited this boy staff?

A. From the schools, chiefly in San Francisco. A few of them were boys in the Y. M. C. A.; some of them from the Boy Scout organization—various organizations of that character and type, and some of them from the Knights of King Arthur.

Q. Do you work with the boys yourself?

A. That has been my particular work; yes, sir.

Q. What have you done to instruct them?

A. We have endeavored to carry out the Curtis plan of salesmanship to the best advantage, along the lines laid down by the Curtis Company. We have organized the Ten Clubs; have had meetings every two weeks; have people from San Francisco—men of considerable prominence; Rotary Club officials; chief probation officer of San Francisco, some prominent athletes and men of that type to speak to the boys and interest them along the lines of thrift.

Q. Do you know the parents of any of these boys?

A. We know practically all of the parents. We make deliveries to most of the boys, in person.

Q. Do the parents of the boys exhibit interest in this work?

A. Great interest, yes.

Q. Has the Curtis Company aided you in keeping this staff and getting the boys?

A. Certainly they have. The Curtis Company has a so-called road man that spends considerable time with us in recruiting boys, assisting us in doing the recruiting, and the financial reimbursement we get from the Curtis Company has also aided very materially in recruiting the boys.

Q. You speak of financial aid. Have you in addition to the commissions that you get on the sale of papers, received any other sums of money, by way of bonuses or prizes?

A. Yes; at quite regular intervals, I should say, from two to three hundred dollars for the last three years.

Q. What would that average per year?

A. I should say about a hundred dollars a year

Q. Were you yourself in school when you were acting as a "Post" boy?

A. Yes, sir.

Q. After that what did you do?

A. I went to the University of California, handled subscriptions for the Curtis Company while I was there. Then I went into business with my father as his partner in the district agency.

Q. And considering the experience you had with the Curtis Company, do you believe that it has been beneficial to you?

A. Tremendously. The fact that I sold Curtis publications was the reason for my going to college, and possibly the last two years of high school also.

Q. What camp have you just come from?

A. The third officers' training camp, at Camp Meade.

Q. Did they aid you in going there?

A. Yes, sir; upon the recommendation of Mr.

Douglas, the Sales Manager, I received my appointment to the training camp.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You say the parents are very much interested in their boys?

A. Indeed they are.

Q. That is not a very unnatural situation, is it?

A. No; it is natural enough.

Q. That would be true in any branch of work, would it not?

A. I should say in this particular branch, in very many instances the parents do believe their children are learning something of business plans and ideas.

Q. Now, out of these 320 boys there would be quite a number of boys that would come out of some other industry, would there not?

A. Very few of them.

Q. Well, are there any?

A. Well, there are some seventy boys who were down-town boys, that were newspaper boys, possibly.

Q. Some seventy of them?

A. About seventy of them also sold newspapers, yes.

Q. And have you any factories or mills in San Francisco?

A. Of course, many of them.

Q. Would many of those 320 boys be out of some of the factories?

A. No.

Q. Not a one?

A. I don't recollect a single boy. We have a few boys—about three—that were lads that worked as office boys in the Pacific Telephone & Telegraph Company.

Q. How did you get those boys?

A. Simply went after them and induced them to sell the publications.

Q. Do you hesitate to employ the boys that are operating with the Pacific Telephone Company?

A. Well, inasmuch as they are apparently doing a favor to some of the employes——

Q. No; answer my question. What was my question?

(The question was repeated by the reporter as above recorded.)

THE WITNESS: We did not think of it along that line, of course. We just let them sell.

Q. Now, then, if you wanted a boy out of the mills to operate, you would go and get him, would you not? You would not hesitate on that, would you, if you need him in your business?

A. I should think that would be regulated by the mill's rules.

Q. You would have a perfect right to go and employ him if the parents were willing.

A. Would I have a perfect right to?

Q. Well, you would go and do it, would you not?

A. I would imagine, yes.

Q. Of course you would. Now, this road work is necessary, of course, to keep the quota of boys up to the necessary number, is it not, because of the large turnover?

A. Well, it is not necessary, but it aids materially.

Q. Well, if those roadmen did not do it you would have to do it, would you not?

A. We do do it.

Q. Who helps you? Does the road agent help you?

A. Occasionally, at different periods, yes.

Q. How much time do these road men spend on this work with you?

A. Well, I would say—of course, that is rather

difficult to answer accurately, but I would say some five or six solid weeks, at various intervals throughout the year.

Q. Three times a year, would it be?

A. Oh, more than that. They come around two or three times a month.

Q. Well, they are all the time coming around and helping you out with the boys; that is the fact?

A. No; that is not the fact at all, but when they do come, they put in some of their concentrated work.

Q. In getting boys?

A. Yes, sir; and other promotive endeavors, too.

Q. Now, do you handle newspapers?

A. No.

Q. And you deliver by trucks?

A. We deliver by truck and collect by Ford.

Q. Rieger sells foreign magazines?

A. Chiefly, yes.

Q. Now, have you the new contract, do you know?

A. I believe it has been put in, but it has been put in since I have left the district—since I have been in the service.

Q. What did you say about Oakland—Egbert Brothers?

A. Egbert Brothers sell in Oakland, yes.

Q. And what did you say about other agents there?

A. Of course, the American News Company goes across the Bay from its San Francisco branch—goes over to Oakland and makes daily deliveries over there?

Q. Were you ever requested to take on the "Pictorial Review" in your agency?

A. No.

Q. You say there are seven or eight agents there. Who are the other agents?

A. There is Fred Cummings, who operates the United News Company.

Q. What is the United News Company?

A. The United News Company is a magazine distributing agency—wholesale magazine distributing agency that sells chiefly socialistic magazines and foreign magazines, but also some local magazines. I don't know exactly what he handles, but he has quite a distributive arrangement there. He has two Ford cars.

Q. You are the chief magazine distributor, are you not?

A. I think our agency is about as prominent as any out there, yes.

Q. Egbert Brothers handle newspapers as well, do they not?

A. No, sir; they don't handle newspapers.

Q. You have not told the names of all the wholesalers who are there yet?

A. I told you about four or five. The Hearst people have their distributive system in San Francisco; there is Liederstorf——

Q. He does not handle magazines, does he?

A. He is a sub-distributor for Cummins, on some of his Socialistic magazines; and the Price News Company, that also handles some of the Masses and magazines of that sort. I spoke of the Hearst company, with their big distributive system in San Francisco. They have a very large distributive system out there and they handle also in Oakland.

Q. Why does the Curtis Company furnish you that truck?

A. There is a peculiar situation that exists in San Francisco in that it is a very difficult city to distribute to, and that is done to allow us to give better service to the people who sell the Curtis publications.

Q. They pay for the truck, do they not?

A. They own the truck and we operate it.

Q. You pay the operating expenses of that truck?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. What percentage of your magazine business is Curtis publication business?

A. About seventy or seventy-five per cent.

Q. What percentage of these boys are school boys?

A. I should say about ninety per cent. of them are boys in school, perhaps more. In fact, nearly all of them, because all the boys who are not school boys are rated as adult dealers.

Q. You spoke of some seventy newsboys.

A. Yes.

Q. Did you count them in your figure of 320?

A. Yes; I did.

Q. Did you report them to the Curtis people?

A. I do; yes.

Q. Do you report them as boys?

A. Yes; and they are boys. They are boys that sell newspapers after they are out of school.

MR. MILBURN: That is all.

FRED W. FARRAR, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Farrar?

A. In the town of Grotton.

Q. Where is your place of business?

A. New London, Connecticut.

Q. What is your business?

A. Why, I am employed as ticket agent for the Thames Ferry Company, for several hours in the day and also district agent for the Curtis Publishing Company.

Q. What is the population of New London—about what?

A. Why, it is about, I should say now, 30,000.

Q. You handle the Curtis magazines there as district agent?

A. I do.

Q. Do you handle any other magazines?

A. Yes, sir.

Q. What are they?

A. I am district agent for "Collier's" there.

Q. Is that all?

A. That is all the magazines.

Q. How long have you been the agent there, Mr. Farrar?

A. Five years next September.

Q. Are there any other magazine wholesalers in New London?

A. Yes, sir; there are.

Q. Who are they?

A. F. Halpern.

Q. What does he handle?

A. He handles "Pictorial Review," all the monthly publications—practically all the magazines, he wholesales. I do not know of any that he does not wholesale.

Q. How long has he been there?

A. He has been there practically three years and a half.

Q. That is a well-established business, is it?

A. Yes, sir; it is.

Q. And is there any other wholesaler there?

A. No, sir; no other wholesaler.

Q. How do you distribute the Curtis magazines?

A. By automobile.

Q. And you have a staff of boys, have you?

A. I have a staff of thirty or thirty-five—somewhere along there.

Q. How do they get their copies?

A. They come after their copies; the dealers I distribute to by automobile.

Q. Have these boys their routes and their customers to whom they deliver their papers?

A. Yes, sir.

Q. How permanent a staff is it?

A. I have some boys who have been with me since I took the agency, five years ago—practically a third of them.

Q. I suppose some of them stay a shorter time?

A. Yes, sir.

Q. Can you arrive at some kind of an average?

A. That is rather hard to base. Some start and get faint-hearted and do not stick and others stick and some have boys bring their pals down to take out the publications. It is rather hard to average. I should say the average is perhaps a year—maybe that is too large and maybe it is not large enough.

Q. Were any boys turned over to you?

A. I think twelve or fourteen.

Q. And you increased the staff to thirty or thirty-five?

A. Yes, sir.

Q. Where do you get them?

A. In various ways; I think chiefly they have been gotten through the literature that has been sent to boys from the home office and the help of the road man who comes around at intervals of from three to five weeks and different ads in the newspapers and from the Boy Scouts' organizations—the troops—and moving picture slides that they have had and the Y. M. C. A.

Q. Have you worked for the Y. M. C. A. in getting boys?

A. Yes, sir.

Q. Have you had boy meetings?

A. Yes, sir.

Q. Are some of your boys members of the Curtis League?

A. I have two that are members of the League.

Q. What have you done about instructing the boys in the matter of salesmanship?

A. I have tried to help them all I could by going around and seeing the boys' parents and in many cases we get the teachers of the schools.

Q. What do these boys handle?

A. "Saturday Evening Post" and "The Ladies' Home Journal" and "The Country Gentleman.

Q. All Curtis publications?

A. Yes, sir; all the Curtis publications.

Q. Are they school boys or working boys?

A. Every boy is a school boy, with the exception of one boy.

Q. Were you ever asked to handle the "Pictorial Review"?

A. No, sir.

Q. Were you ever asked to handle "Every Week" or the Crowell publications?

A. I was approached on "Every Week."

Q. When was that?

A. Some year or so ago—I do not remember the date.

Q. Did you take it up?

A. No, sir.

Q. Why did you not?

A. Why, the only reason I can state is, that I do not think it was profitable.

Q. Did you ask the Curtis people if they would object to it?

A. No, sir; I simply dropped it.

Q. At that time, you were the Curtis agent?

A. I was.

Q. And at that time was this other man Halpern —was he in business at that time?

A. He was.

Q. Is he the main wholesaler there?

A. He is.

Q. Have you, by way of bonus, or prizes, received any money over and above your commissions?

A. Yes, sir; I have received several bonuses and prizes.

Q. How much would that amount to?

A. It would amount to a considerable sum total; I could not say exactly, but I imagine in the neighborhood of $300.00—possibly more. I have never added that up. I have simply taken it as bonuses and let it go at that.

Q. It is a material consideration in your business?

A. Yes, sir; it certainly is.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Are you under the contract with the Curtis Publishing Company now?

A. I am; yes, sir.

Q. How long have you been under that contract?

A. Since the 1st of March.

Q. This year?

A. Yes, sir; 1918.

Q. What was the occasion for your changing to this new contract?

A. I thought it would be much more beneficial to me.

Q. You asked them to change it for you?

A. No, sir; I did not.

Q. Did they ask you?

A. They came around and showed me the new plans they had and asked me if I would like to handle their contract in preference to the other one, and after I looked at it, it looked more profitable to me. I pay for the copies after I get them now, instead of before.

Q. Is that the only difference between the two contracts?

A. There may be other changes that I do not remember at this time. I admit I have not studied it as much as I probably should.

Q. So far as you know, are there any other changes?

A. I do not recall of anything else.

Q. You spoke of receiving commissions from the Curtis Publishing Company?

A. Yes, sir.

Q. Did you receive any commission from the Curtis Company prior to going under the new contract?

A. All of my commissions I figured before my new contract.

Q. Did you not pay for your magazines under the old contract before you received them?

A. I did.

Q. Did you remit anything to the Curtis Publishing Company for those magazines after you got them?

A. I do not quite catch your question?

Q. You paid for them before you got them?

A. Yes, sir.

Q. And after you sold them, that money for the magazines belonged to you?

A. Yes, sir.

Q. How did you receive any commissions from the Curtis Company under the old contract?

A. From the different prizes and from the——

Q. I am asking you did you ever receive any commissions from the sale of the magazines from the Curtis Publishing Company prior to your new contract?

A. That is what I am telling you, that I did.

Q. Explain what they were?

A. They offered prizes on "The Country Gentle-

man," for the promotion of so many sales and in different ways. They paid me for new boys; we were allowed so much for new boys and the boys that joined the League of Curtis Salesmen, we were offered two to four dollars for a boy that joined and every step up, we received four dollars.

Q. Would you say that was a commission or a bonus?

A. I should say it was a bonus.

Q. Then, you never received any commissions from the Curtis Publishing Company for the sale of their magazines before your new contract?

A. That would depend on how you term "commission."

Q. How do you term it?

A. I do not term it. I do not know.

Q. The situation was that you paid for the magazines in advance?

A. Yes, sir.

Q. And when you sold them the money was yours?

A. Yes, sir.

Q. And you say you were approached on the "Every Week"?

A. Yes, sir.

Q. When was that?

A. I think I said about a year ago.

Q. It is very hard to get boys to handle publications, is it not?

A. No; it is very easy.

Q. Very easy?

A. Yes, sir.

Q. But the Curtis Company advertises quite extensively, and they have roadmen that come into your town and stay three or four weeks, and you take up with the school teachers and parents and the secretaries of the Y. M. C. A. the matter of getting boys, and

you offer prizes, and bonuses to get boys; but still you say it is a very easy matter to get them?

A. I do not know of any roadman that stayed in New London three or four weeks.

Q. They go there and make an attempt to get boys?

A. Yes, sir.

Q. Taking all those things into consideration, you wish to say it is easy to get boys?

A. Yes, sir; I can get ten any time.

Q. Even if you do not advertise for them?

A. Yes, sir.

Q. Can you get ten without going to see the secretary of the Y. M. C. A.?

A. I do not know that I would have much trouble if I exerted myself.

Q. You could get ten without seeing the teachers that you know?

A. I do not know; I think so.

Q. You think so, do you not?

A. Yes, sir.

Q. Then, this system of the Curtis Publishing Company of advertising and seeing the teachers and secretaries of the Y. M. C. A. would be unnecessary to get boys in your district, to a large extent?

A. No, sir; it would not. It is a great help. The teachers take much interest in the children.

Q. How many boys in your district, since you have been agent there, have ever gotten memberships in the Y. M. C. A. through the selling of the Curtis publications?

A. Well, I do not recall exactly. I have had several. I do not know how many.

Q. Can you give me the name of one?

A. Oh, yes; Harold Berg and Ernest Whiton are two that I know of.

Q. Is that all?

A. I do not think of any others.

Q. How do you pay for your magazines now?

A. How do I pay for my magazines now?

Q. Yes.

A. The plan is now that you draw your copies on Wednesday or Tuesday morning, and distribute them on Thursday and pay for them on Saturday.

Q. Well, you mean you pay for them the Saturday following?

A. Yes.

Q. Are all your returns in two days after they are put on sale?

A. Yes, sir; I collect the next day for the week previous.

Q. You collect the unsold magazines the day they go on sale?

A. No; the week before—the magazines of the week before.

Q. You get credit for the week before on the sale that you make, this present week—is not that true?

A. Yes, sir; that is true, deducting the returns.

Q. How many "Posts" do you draw a week?

A. About a thousand.

Q. Now, take last week: How many did you draw last week, or the week before last—two weeks ago?

A. Nine hundred and fifty copies, I think it was two weeks ago.

Q. How many did you sell?

A. I do not remember of having more than six returns. I might have had more—a few more. I know it was very small. We do not have enough to go around there. We have been cut off on the magazines lately.

Q. Your quota has been cut down?

A. Yes.

Q. What was your bond under the old contract?

A. I do not remember—$65 or something like that.

Q. What is it now?

A. One hundred and fifty.

Q. One hundred and fifty dollars' cash deposit?

A. Cash deposit.

Q. How many "Ladies' Home Journals" do you sell?

A. Seven hundred and fifty I drew last month.

Q. How many "Country Gentleman"?

A. One hundred and fifty.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Can you return your magazines?

A. I can return every magazine unsold—

MR. SPIESS: You say you can?

A. Yes.

MR. SPIESS: I thought you said you did.

THE WITNESS: No.

(Witness excused.)

IRVING V. COBLEIGH was called as a witness on behalf of the respondents, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Cobleigh, where do you live?

A. Burlington, Vt.

Q. What is your occupation?

A. Teacher.

Q. Teacher in the public schools?

A. Yes, sir; teacher in the high school—public schools.

MR. DALY: What town is this?

A. Burlington, Vt.

By Mr. Milburn:

Q. How big a place is Burlington?

A. Twenty-two thousand.

Q. Have you been a teacher there for some years?

A. Nine years.

Q. Have you any connection with the Curtis Company in addition to that?

A. I have taken up the district agency of the Curtis Publishing Company.

Q. When did you first come in contact with the work of the Curtis Company?

A. Indirectly about three years ago—two or three years ago; I do not recall the exact period. I was interested in salesmanship as a study in the schools and was recommended to the Curtis Publishing Company as having some interesting ideas on salesmanship, and I then wrote to the Curtis Company at Philadelphia and received copies of the "Counselor" and "How to Sell," which I used in my class work.

Q. And that resulted, eventually, in your becoming their district agent?

A. Eventually.

Q. When did you become their agent?

A. January of this year.

Q. How many boys have you?

A. Twenty-two.

Q. Have you worked with them at meetings with them and instructed them in salesmanship?

A. From the very beginning; that was the one thing I was particularly interested in.

Q. Where did you get these boys?

A. I secured them in connection with the Curtis Publishing Company; they suggested how to start—I went to the Y. M. C. A. and the superintendent of the schools, and the superintendent of schools gave me access to the names at the start. Since that time I

have had no difficulty; the boys have come in themselves.

Q. One boy brings in another boy?

A. At present; I can have the opportunity of selecting all the boys I want.

Q. Is there any other magazine wholesaler in Burlington?

A. There are two, and I think three. I am not absolutely srue of the third. I know there are two.

Q. What are they?

A. The City News Company and Fraser, and I think Bessey does. I am not absolutely sure.

Q. They handle other magazines, do they?

A. They handle other magazines. I am sure all three of them do.

Q. What do your boys handle?

A. So far as they are related to me, they handle only the Curtis Publishing Company magazines.

Q. Do you know anything about any other activities that they may have?

A. There are three, I think, that are newsboys who sell periodicals—one or two on the street. I do not know in detail concerning just what they sell. I know two of them sell other magazines.

Q. From your connection with this business and your knowledge of the methods of the Curtis Company, do you consider this relationship beneficial or of aid to the boys?

A. I think it is helpful to the boys, to the town and myself.

Q. I mean other than commercially helpful?

A. I believe so. Our purpose is to inspire them. The letters I write to the boys, the addresses I get from outside people who come and speak to the boys are stimulative, not only of sales, but of character.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Are you a teacher now?

A. Yes, sir.

Q. Where do you teach?

A. In the high school at Burlington, Vt.

Q. How long have you been a teacher?

A. I started teaching in 1884.

Q. Practically ever since you were grown up?

A. Pratically, yes, sir; in public and in private schools. Not all of the time in public school.

Q. What do you teach?

A. I have charge of the commercial department in the high school.

Q. Do you teach salesmanship?

A. As one of the courses in the commercial department.

Q. How long have you been teaching salesmanship?

A. We started three years ago. This is the third year of teaching that in the high school.

Q. How long have you been agent for the Curtis Company?

A. Since January of this year.

Q. Did you ever sell anything?

A. I have sold very little—not very much, sir.

Q. Well, as an actual salesman, then, you have not had any experience, have you?

A. No, sir; not on the road.

Q. You wrote to the Curtis Company for their pamphlets on salesmanship?

A. Yes, sir.

Q. Do you use those pamphlets in instructing those Curtis boys how to sell, or do you use the system that you follow in the school?

A. I try to use both, sir.

Q. Are they similar?

A. The Curtis Publishing Company went more into detail. The general texts that I use are more a matter of principle.

Q. Are they also a matter of theory.

A. The general text was quite largely a matter of theory.

Q. And the boys are taught both systems?

A. I am trying to do so.

Q. Who was the Curtis agent there before you?

A. Mr. Gasinowitz.

Q. Did he have any Curtis boys, do you know?

A. I received five when the transfer was made.

Q. What was the Curtis agent's business before you, outside of handling the Curtis publications?

A. He was the city newsdealer. The official title, I believe, is the City News Company. He represented that business.

Q. What do the others agents there handle? I believe you said there were three.

A. There is Mr. Fraser, and I think Bessey handles wholesale goods.

Q. Do you know what he wholesales?

A. I do not. I haven't paid particular attention. His windows are well filled with various magazines.

Q. To your knowledge you do not know whether or not he is a wholesaler?

A. No, sir.

Q. What does the other wholesaler handle in the magazine line?

A. Fraser is just starting in. He told me two months ago that he was hoping to start in a full business. He has only a small stand at present.

Q. What does he sell?

A. I haven't followed up to know.

Q. You don't know whether he wholesales, either, do you?

A. No; he told me it was his ambition to start up a full-fledged wholesaling.

Q. So far as your knowledge goes, you don't know whether either one of these men is wholesaling?

A. I know Fraser told me he was wholesaling; that is the limit of my knowledge.

Q. The Curtis agent you succeeded, do you know what magazines he handled?

A. No.

Q. Did he handle other magazines?

A. Yes, sir.

Q. Do you know who handles "Pictorial Review"?

A. I do not.

Q. Do you know who handles "Every Week"?

A. My impression is that Bessey does, but I am not sure.

Q. If you were in any other business than wholesaling magazines, and you used boys in that business, you would get the best boys that you thought would be particularly adapted to that line of business in which you were engaged, would you not?

A. I should try to.

Q. And you would get those boys along the lines of your particular business?

A. I should try to, and I should try to get others in the same line.

Q. And it is not simply because this is the Curtis publication that boys have to be taught, is it?

A. My impression is that boys have to be taught in anything.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

(Witness excused.)

MAXWELL HOPKINS was called on behalf of the respondent, and being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Hopkins, where do you live?

A. Williamsport, Pennsylvania.

Q. What is your business?

A. Druggist.

Q. How big is Williamsport?

A. About 40,000.

Q. In addition to your drug business, do you handle any magazines?

A. District agent of the Curtis Publishing Company. I retail about four copies of "Literary Digest" a week.

Q. How long have you been the Curtis district agency?

A. Two years.

Q. Who had it before you?

A. My brother-in-law, Bert Wood.

Q. Do you distribute these magazines through boys?

A. Yes; boys come to the store.

Q. You are married, are you not?

A. Yes, sir.

Q. Was your wife familiar—did she know these boys or was she familiar with this business before you married her?

A. She took care of it entirely in her brother's store.

Q. She is now familiar with it?

A. She still does the clerical end of it.

Q. You said you had been agent for three years about, did you not?

A. About two years.

Q. Is there anyone else engaged in the business of wholesaling magazines in Williamsport?

A. Yes, sir; H. Y. Otto.

Q. What does he handle?

A. "Literary Digest," "Pictorial Review"—I guess most any other that he can get hold of.

Q. How long has he been established?

A. Oh, since 1889.

Q. Anybody else?

A. Yes; Mr. Gouldy.

Q. Does he handle other magazines?

A. "Every Week." I don't know whether he jobs any others or not.

Q. Any others—anybody else?

A. Not definitely, no.

Q. Is there any branch of the American News Company there, do you know?

A. Not a branch, no.

Q. Is there a delivery service there?

A. Through mail, I believe.

Q. How many boys have you, all told?

A. About thirty.

Q. Did any of these come to you when you took the agency?

A. About twenty-four.

Q. You report their activities every week to the Curtis Company, do you?

A. Yes, sir.

Q. What work, if any, have you done with them?

A. Principally the taking care of the boys as they come in for their magazines.

Q. Is the staff of boys a fairly permanent one?

A. Yes; the great majority of them; seventy-five per cent.——

Q. What did you say?

A. About seventy-five per cent. of them are older boys that came originally—that is worked right along.

Q. Have you received from the company in the way of bonuses or prizes any sums of money other than you earned as commissions on the paper?

A. About twenty or twenty-five dollars in bonuses.

Q. Prizes?

A. No; as bonus money for new boys.

Q. That is the only extra compensation you have got?

A. Yes.

Q. Do you wholesale any magazine, other than the Curtis?

A. No, sir.

Q. I think your testimony was you sold a few copies of "Literary Digest," at retail?

A. At retail.

Q. Do you know these boys personally?

A. Yes; know all of them.

Q. Do you know the parents?

A. About fifty per cent. of them—probably more.

Q. Have you done any work in interesting the parents in this business?

A. I meet them quite often. They are coming in the drug store—talk to them in a general way.

Q. In maintaining this staff of boys, have you been aided by the Curtis Company?

A. Yes, sir.

Q. Through its road men and other ways?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Who distributes Curtis magazines to the retailer?

A. I do.

Q. How many retailers are there in that town?

A. About twelve.

Q. What equipment have you for delivery?

A. Why, a boy takes them around with a push-cart.

Q. Is the town very large?

A. About 40,000. It is the dealers in general who are pretty closely located.

Q. How long does it take a boy to deliver to twelve retailers?

A. An hour and a half to two hours, taking up returns from the previous week and leaving the new ones.

Q. Now, you say Mr. Gouldy handles "Every Week"?

A. Yes, sir.

Q. How long has he been handling "Every Week"?

A. About six or eight months, I believe.

Q. What was he before he handled "Every Week"?

A. He has a little newsstand out on the street—built on to a building.

Q. He was a retailer, was he not?

A. Yes, sir.

Q. How long has Mr. Otto been handling "Literary Digest"?

A. Possibly about eight months.

Q. How long has he been handling the "Pictorial Review"?

A. I don't know.

Q. Were you ever asked to handle "Pictorial Review"?

A. No.

Q. Were you ever asked to handle "Every Week"?

A. No.

Q. You say your wife assists you in the distribution and sale of the Curtis publications?

A. She assists me in the clerical end of it, princi-

pally the ordering and remitting—making out reports.

Q. And receiving returns from the boys?

A. Well, no; I do most of that, handling the boys myself back of the counter.

Q. Have you a new contract with the Curtis Company?

A. Yes, sir.

Q. When did that go into effect?

A. Last January—this year.

Q. What was your bond under the old contract?

A. Sixty-one dollars.

Q. What is it now?

A. Two hundred and fifteen dollars.

Q. How many "Posts" do you handle a week?

A. Seven hundred and twenty-five.

Q. How many "Ladies' Home Journals" per month?

A. About 650.

Q. How many "Country Gentleman"?

A. About 125.

Q. You are speaking of your quota under your new contract now, are you?

A. I am under the new contract; yes, sir.

Q. What were your drawings under the old contract on those publications?

A. Very nearly the same, probably a little lower.

Q. They were a little lower under your old contract?

A. Probably; yes, sir.

Q. Have you unlimited returns under your new contract?

A. Yes, sir.

Q. Have you received any verbal instructions from the Curtis Company as to your returns from the new contract?

A. The roadman gave me a general idea that the returns were unlimited.

Q. When was this?

A. At the time of taking out the contract, practically the same words as in the contract.

Q. He told you they would be practically the same as the words in the contract?

A. No; his explanation was practically the same as is in the contract.

Q. About returns?

A. Yes.

Q. Do you know whether there is anything in the new contract about returns?

A. Yes.

Q. What is it?

A. I don't know whether I do or not.

Q. Do you know whether or not there is anything in the new contract about full returns?

A. No.

Q. Do you wish to correct that statement that the agent told you that the terms were practically the same as in the new contract?

A. The agent told me that we had full-return privilege.

Q. That is what I want to get. At the time you made your new contract, he told you you had full-return privileges?

A. Yes.

Q. What were your return privileges under the old contract?

A. Fifteen per cent. of our drawings on the "Post" and "Country Gentleman."

MR. SPIESS: That is all.

MR. MILBURN: Have you ever had any trouble about your returns?

THE WITNESS: No.

(Witness excused.)

CHARLES E. LUTHER, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Pawtucket, R. I.

Q. What is your business?

A. News dealer and stationer.

Q. Do you handle the Curtis papers there?

A. Yes.

Q. How long have you done that?

A. About eight years.

Q. Do you handle any other magazines?

A. As wholesaler?

Q. Yes.

A. No; I don't.

Q. You have a retail business, too?

A. Yes, sir.

Q. Is there any other wholesaler there in Pawtucket?

A. There is one wholesaler of magazines and another of newspapers.

Q. How long has the magazine wholesaler been in business, do you know?

A. About two years, I imagine.

Q. What magazines does he carry in the wholesale line?

A. Practically everything that the American News Company does not carry—that is on a returnable basis. The Hearst publications. He is a Hearst representative there for the newspapers and he has taken on different magazines from time to time.

Q. Is there a branch of the American News Company there, too?

A. No; in Providence. They distribute them in our town.

Q. By auto delivery?

A. Yes.

Q. How do you distribute your magazines?

A. Mostly by trolley.

Q. You mean by that, to the boys or to the dealers?

A. The boys live within a very small radius of the store and they call for their own.

Q How many boys have you?

A. About forty or forty-five—around there.

Q. What papers do they handle?

A. Well, most of them handle the Curtis publications. They buy their magazines during the week also from me.

Q. How many of them—what proportion of them are engaged only in handling the Curtis publications?

A. I should say at least 50 per cent.

Q. And the others handle other magazines?

A. Yes; they seem to when they solicit orders for the Curtis publications—why, they get orders for other magazines. We allow them a similar percentage, but the percentage is smaller, and we make no objections to furnishing them all they want of any kind.

Q. If a boy asks for a magazine, you give it to him?

A. Yes.

Q. Were you ever asked to handle the "Pictorial"?

A. Yes.

Q. When?

A. Why, I can't exactly say. It is some years ago, through a road agent.

Q. Was this other wholesaler in business then?

A. No; I believe that the American News Company were circulating the "Pictorial" at that time.

Q. You say this was some years ago?

A. Yes; I can't remember.

Q. Did you ever handle it?

A. No.

Q. Were you ever asked to handle "Every Week" or the Crowell publications?

A. Yes.

Q. When was that?

A. About a month ago.

Q. By whom?

A. By an agent. I don't remember his name.

Q. What was said about that?

A. I simply did not see any money in it for me, so I told him I did not care for it.

Q. How were you asked to handle it, through boys, or just the dealers?

A. Partly through boys?

Q. What is the population of Pawtucket?

A. About 56,000.

Q. Have you received any sums of money, by way of bonuses, prizes and so forth from the Curtis Company?

A. At different times I have, yes.

Q. In material amounts?

A. I should say in all of the time—about eight years—possibly around $500.00.

Q. Has the Curtis Company co-operated with you in getting boys as you needed them?

A. Always.

Q. Along that line?

A. Always.

Q. What have you done about getting boys?

A. Well, simply co-operated with the road agent—carried out their plans as sent to me from time to time.

Q. Have you had boy meetings?

A. Boy meetings.

Q. Where did you hold them?

A. Sometimes in the Y. M. C. A., sometimes in the store.

Q. Did the boys get any instruction in salesmanship?

A. All of the boys—they get their book every month. Each one has got a "How to Sell" book and we encourage them in every way, where we see a boy is ambitious.

Q. Are you under the new contract?

A. Yes.

Q. When was that put in?

A. About a month ago, I think, or two months—I don't just recall.

Q. How was the method of carrying on the business changed, if at all, under that contract?

A. As far as I can see, practically no change.

Q. Was there a change in the time of payment?

A. In the time of payment, yes—pay after we get the copies.

Q. And is not the return privilege better?

A. The return privilege—it gives us, in my case with thirty dealers——

MR. SPIESS: Just a minute. Are you speaking about the contract?

MR. MILBURN: I asked about the operation under the return privilege.

MR. SPIESS: I thought you were speaking about the contract.

MR. MILBURN: It is practically the contract.

MR. SPIESS: I object. There is nothing in the contract about the return privileges.

MR. MILBURN: Yes, there is.

By MR. MILBURN:

Q. Continue with your answer.

A. In my case, with thirty dealers, I have a longer time now. Under the old arrangement we had two

weeks in which to make returns. Under this new arrangement, why we have three weeks. They are fully returnable also, which is also an aid.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When do you make your returns to the Curtis Company, as a matter of fact, under the new contract?

A. Well, practically the same as under the old.

Q. When was that?

A. Every two weeks.

Q. You have been the Curtis agent for eight years?

A. Yes.

Q. You handle no other magazines?

A. Well, in the first part of my agency I handled "Collier's." I have handled different magazines at different times, but have dropped them on account of their being unprofitable.

Q. Unprofitable to handle "Collier's," was it?

A. Yes.

Q. Any other magazine outside of Curtis?

A. We have had several magazines, some sporting magazines at different times. I cannot recall all of the magazines that we have taken on and dropped at different times.

Q. But you dropped them because they were unprofitable?

A. Yes.

Q. Isn't it ever profitable to handle a single magazine wholesale?

A. It depends on the circulation.

Q. I am asking in your case—in your town?

A. No; it was not.

Q. It would not be profitable?

A. Not for distribution to dealers and collections

and taking care of accounts. In some cases, especially in wholesaling magazines, the profit to the wholesaler is sometimes a half a cent or a cent, or one and one-half cents at the most, and the time you put into them you could put into something more profitable.

Q. If you only handled one magazine it would be unprofitable?

A. That depends on the circulation.

Q. I am speaking of your town, now?

A. Only one magazine?

Q. Yes.

A. It would be unprofitable if the circulation was not there.

Q. Do you know of any magazine that is sold with profit in your town—single magazine that could be wholesaled with profit in your town?

A. There are a number at present.

Q. Name some.

A. "Pictorial Review," "Literary Digest," Hearst publications.

Q. I am speaking about one single magazine. Could the "Pictorial Review" be wholesaled by a distributor at a profit?

A. You mean giving his whole time to it?

Q. As a wholesaler of one magazine?

A. I would not—I would say it could not be made profitable.

Q. Do you know of any other magazine that could be made profitable by just wholesaling it?

A. "The Saturday Evening Post."

Q. Just giving your whole time to "The Saturday Evening Post"?

A. I, as a news dealer, don't give my whole time to it, but I mean for the time I put into it it is profitable.

Q. Now, you allow your Curtis boys, so-called, to handle other magazines, don't you?

A. Yes, sir.

Q. Where do you get these other magazines that your Curtis boys sell?

A. They are delivered to me by either the American News Company, or by the local representative of the Hearst and "Pictorial Review" people.

Q. Do you handle "Pictorial Review"?

A. Yes, sir.

Q. Wholesale?

A. Yes, sir; that is to the boys that want them. I don't wholesale them to the dealers.

Q. You don't wholesale them to the dealers?

A. No, the wholesale agent in the town looks after that. He delivers me a certain number of copies, and my boys, as they come in and demand them, I give them to them. Of course, I cannot give them the same profit that the wholesale agent could. We simply go fifty-fifty on that.

Q. You and the Curtis boys split the profit on "Pictorial Review"?

A. Yes.

Q. And on any other magazines?

A. Yes, sir.

Q. But you are not the wholesale distributor in that town of "Pictorial Review," are you?

A. No; I am not.

Q. How many other wholesalers are there in that town, besides you?

A. Well, there is only one wholesaler of magazines. There is another wholesaler of newspapers.

Q. How long has this other wholesaler of magazines been in business?

A. I should say about two years.

Q. Does he handle all magazines?

A. Practically all that are not handled by the American News Company.

Q. Have you a branch—this is a branch of the American News Company in your town?

A. No; in Providence, about five miles away.

Q. You were never asked to handle "Pictorial Review," were you?

A. Yes; I was.

Q. When?

A. Some years ago—I can't recall just the date.

Q. Have you ever been approached to handle "Pictorial Review" since they have broken away from the American News Company?

A. I don't think so.

Q. You have spoken about the interest that you take in the Curtis boys. Do you take any interest in any other boys than Curtis boys?

A. My own boys—newsboys. I have about thirty of them—route boys—street boys. In fact, I have got a family of boys—about seventy boys altogether, between the Curtis and the route carriers.

Q. Now, boys that don't sell the Curtis publications; do you take any interest in them?

A. You mean boys working for me?

Q. Sure.

A. I have got to to maintain my business.

Q. Then it is a case of just maintaining your business that prompts you to take care of your boys?

A. Partly that. I like boys anyway. We try to keep—the way I feel, that I am under a certain kind of obligations to those boys to keep them straight. We try to regulate our business in such a way as to keep the boy honest. That is the main thing with me. We have certain forms and ways of doing business that tend to do that.

Q. Have any of these boys who sell newspapers and who never sold Curtis magazines been placed in positions by you?

A. Well, I don't know. I have got boys—different

boys—both Curtis boys and newsboys, positions. I have not really specified a Curtis boy or my own boy. I simply try to help them as they need it.

Q. These newsboys that you have are good, clean boys, are they not?

A. As a rule they are.

Q. And oftentime they get good positions?

A. Very good, yes, sir. I am well acquainted with most of the business men in town, and I put myself out sometimes to get them in positions.

Q. Newsboys?

A. Yes, sir.

Q. Is this a mill town?

A. Well, yes; it is a big manufacturing town—not all mills. It is diversified.

Q. Do you get any of the boys out of the mills to handle Curtis publications?

A. Yes; I have two at present.

Q. You don't hesitate about going after these boys when you need them, do you?

A. The boys come to us, as a rule, through the methods we have of getting them, advertisements, meetings and boys telling each other—boys succeeding each other.

Q. When a boy comes to you and tells you he is working in a mill, and he wants to handle Curtis publications, and he is a good moral boy, so far as you know, you take him, don't you?

A. Sure.

Q. You never try to find out whether or not he is well trained in mill work, do you?

A. As a rule the boys I have had from these mills, they are office boys that have spare time to do that work. They get permission of their employers to go around in their spare time and circulate the papers that they are selling.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You testified some of your boys took copies of the "Pictorial" out to sell. About how many "Pictorials" did they sell?

A. Well, one boy, now, last week—this last week—the way some of the boys do, while they are waiting for "The Ladies' Home Journal" to come out, especially, they will try to sell some other magazine. The "Pictorial Review," coming out earlier, gives the boys that chance. I have one boy in particular, who, last week, took out ten copies.

Q. What does the whole thing amount to?

A. I should say approximately what the boys are taking out now would amount to one-third of my sales.

Q. Of the "Pictorial"?

A. Yes, sir.

Q. What do you mean by "profitable"—do you mean a paying?

A. I should say, if I am going to put in so many hours on a job, I would want to see a reasonable amount coming in for that time that I put in.

Q. In other words, when you say the handling of a paper is not profitable, you do not mean necessarily that it is done at a loss?

A. No, sir; but that it does not remunerate me for the time I put into it.

Q. When you said you could not handle the "Pictorial" profitably, what do you mean by that?

A. Well, at that time, some years ago, the circulation was not large enough to pay me to circulate it.

MR. DALY: Learned counsel has gotten all that out of him. He has asked that question twice already.

By Mr. Milburn:

Q. In other words, if you are engaged in some other business, and devote a part of your time to wholesaling magazines, that might be profitable?

A. Yes, sir.

Q. But as your sole work in life, to devote it entirely to the sale of magazines, it would not pay?

A. None of them would pay, for that matter.

Q. That depends, of course, on what you thought you should get?

A. Yes, sir.

Re-Cross-Examination.

By Mr. Spiess:

Q. Have you got the new contract with the Curtis Publishing Company?

A. Yes, sir.

Q. When did that go into effect?

A. About a month or two ago.

Q. How did you come to change from the old contract to the new?

A. It was brought to me by the roadman.

Q. What did he say to you about changing?

A. Simply that it was a new form of contract that they wanted to enter into with us.

Q. What was your cash bond under the old contract?

A. One hundred and seventy dollars.

Q. What is it now, under the new contract?

A. Two hundred and fifty dollars.

Q. What is your circulation of the "Post"?

A. Anywhere from 900 to 1000.

Q. And of "The Ladies' Home Journal"?

A. About 700.

Q. And of "The Country Gentleman"?

A. Two hundred and twenty-five.

Q. What was your drawing under the old contract, just before it was terminated?

A. Practically the same.

Q. What is the difference between the old contract and the new contract?

A. I have not noticed any particular difference outside of the return privilege, and that we pay for our copies after we sell them instead of before.

Q. Do you know of your own knowledge why your cash bond was increased?

A. Well, I could not say; the only difference is that it simply—where previously we had to keep our accounts two weeks in advance, now we simply—we still keep in mind we have to keep our copies two weeks in advance, but I do not have to advance the money for them. The advance money practically goes into the new bond.

GEORGE Q. DOWNES, JR., called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Downes?

A. Chester, Pa.

Q. How big a place is Chester?

A. At the present time I believe the population is about 53,000.

Q. Are you in business?

A. I am a student at the University of Pennsylvania at the present time.

Q. How long have you been there?

A. This my first year—since the 1st of last September.

Q. Do you handle the Curtis publications wholesale in Chester, Pa.?

A. I do.

Q. For how many years have you done that?

A. I have been their district agent for three years this next week, but I have been connected with the Curtis people for about twelve years, starting as a boy.

Q. For eight or nine years, you were a "Post" boy, I understand?

A. Yes.

Q. And then you became the district agent three years ago?

A. Yes, sir.

Q. Now, how many boys have you under you at the present time?

A. I should say about thirty or thirty-five.

Q. Do you handle any other magazines wholesale except the Curtis publications?

A. Neither wholesale nor retail.

Q. Where did you get these thirty or thirty-five boys that you have spoken about?

A. Well, I suppose probably half of them were turned over to me by the preceding district agent; the others have been recruited by the aid of the Curtis roadman and the Y. M. C. A.; the film "Thomas Jefferson, P. J. C.," made a great hit in our town. I showed it in the schools through the endorsement of the superintendent, and through that we got quite a few of the boys.

Q. In obtaining those boys, I understood you to say you had material assistance from the Curtis Publishing Company's roadman?

A. We have always had the heartiest co-operation.

Q. What do these boys sell?

A. I think the three of them are newsboys, and the rest have their regular routes—three of them sell on street corners.

Q. And, as far as you know, they sell nothing else except Curtis publications?

A. No, sir.

Q. Have you ever received any prizes or any money other than the commissions on your sales?

A. Well, in the three years I have been district agent I have received in bonuses for surplus sales and for obtaining new boys—I have probably received $200 in those three years. I have received a great many prizes when a boy, one of which was a gold-filled Elgin watch, which I received at ten years of age, for selling the greatest number of "Posts" in my home town.

Q. Do you carry on this district agency business at the same time you are attending the University of Pennsylvania?

A. I do; yes, sir.

Q. What do you do—do you go up there from Chester?

A. Yes, sir; I ride back and forth on the train.

Q. When do you attend to the Curtis Publishing Company's business?

A. After school hours; my father helps me on the clerical end of it. I do all the business end of it.

Q. Do you know whether there are any magazine wholesalers in Chester?

A. I know of one wholesaler—one wholesale magazine dealer, and that is Sophovitz. He handles magazines. There are a number of newspaper wholesalers, too.

Q. Do you know what Sophovitz handles in the way of magazines?

A. He handles most all of these publications, such as "Munsey," "Life" and those others, and he seems to take particular interest in handling "Pictorial Review." I do not know why.

Q. He handles most all magazines?

A. Yes, sir; except these cheap novels, which are handled by Stevenson.

Q. How long has he been in business?

A. About two years. It is an old stand that he bought out from another man.

Q. Have you recently entered into the new form of contract with the Curtis Publishing Company?

A. About two months ago, I believe—yes.

Q. What difference has that made in your business operations?

A. Well, the new contract, as it stands, allows me full return privileges, at three weeks, and I am also permitted to remit after the papers have been distributed.

Q. I want to ask you about the character of these thirty or thirty-five boys, three of whom you said were newsboys. What are the other boys?

A. Every one of them go to school and three of them are Curtis League members. One of the chief requirements of the Curtis League is a high sale average and also an efficient grade in school, and these three boys, I understand, are progressing very well in school, together with the Curtis work.

Q. Do you keep track of the standing of the boys in the school?

A. I look after it about twice a year, to see if they are up to the standard.

Q. Do you get any Y. M. C. A. memberships for these boys?

A. I do not know whether these boys ever received them or not; they are entitled to it. I have not gone into detail in that matter.

Q. Were you ever asked by the "Pictorial Review" or the Crowell Publishing Company, to take the agency for their magazines?

A. No, sir.

Q. Will you tell us, Mr. Downes, how you distribute the Curtis publications to the various dealers—retail dealers

A. To the dealers.

Q. Yes.

A. I distribute them chiefly, or, in fact, entirely with a small push-cart and a wheel.

Q. Do you make that distribution yourself or through boys?

A. Myself, personally.

Q. You make that yourself, personally?

A. Yes, sir; after school hours.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How old are you, Mr. Downes?

A. Eighteen.

Q. What studies are you pursuing in the Pennsylvania University

A. I am a freshman in the electrical engineering course.

Q. When did you make up your mind to take up those studies?

A. In the University?

Q. Yes.

A. I have been going through high school with a sort of calling toward electricity; and then I thought I should like—I had several positions offered to me by large factories in the town, through my Curtis relations, having served them there and having expressed their willingness to employ me upon going through high school. Seeing the necessity of a good education, I took up this course of electrical engineering, and I might say to you that I am paying my way through the University on my earnings from the Curtis publications, and on the bonuses, too.

Q. Do you get commissions from the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you been under the new contract?

A. Between a month and two months—something less than two months.

Q. Did you receive any commissions on the magazines you sold under the old contract?

A. I received a certain percentage on each copy sold, of course.

Q. But did you not buy these outright from the Curtis Publishing Company, under the old contract, and keep all the money from the sales?

A. They were bought outright, but I did not sell them for the same price that I bought them.

Q. You bought them and paid for them in advance, under the old contract?

A. Yes, sir.

Q. And after you bought them and sold them, the money was yours, was it not?

A. Yes, sir.

Q. Under the new contract, you remit in advance?

A. No, sir; not until after the papers are distributed.

Q. What was your bond under the old contract?

A. I think it was seventy dollars.

Q. What is it now?

A. One hundred and ten dollars, I believe.

Q. Cash money?

A. Yes.

Q. Did you put this bond up yourself, under the new contract?

A. I did; the increase in the bond is very practical, because——

Q. I do not want to know anything about that. I want to know if this was your own money?

A. Certainly.

Q. Did your father sign this contract for you?

A. Yes, sir.

Q. How long have you been agent, you say, for the Curtis Publishing Company?

A. Three years, this next week.

Q. How many copies do you sell?

A. I think about 850 "Posts," and an average of about 450 "Ladies' Home Journals," and an average, I think, of about 100 "Country Gentleman."

Q. You spoke of another wholesaler there—Sophovitz—you say he handles all the magazines in Chester?

A. I would not say he handles them all; he handles a good many. I do not know exactly what he handles. I know he handles a good many.

Q. How long has he been in business there?

A. I suppose he has been in business about two years. The stand is not a new stand. He bought it out from another man.

Q. Did he ever handle the Curtis publications at wholesale?

A. He did not; his predecessor did.

Q. Do you know when the Curtis Publishing Company stopped distributing through that agency?

A. Do I know when?

Q. Yes.

A. Why, just—I took it over right from him.

Q. Do you know what was the occasion for the change?

A. Well, the gentleman who had the agency, did not seem inclined to want to run things the way he should run them. He did not care about it. He did not care whether a man came and got his copies or not, and he did not send in sales reports and did not attend to business as he ought to. It was generally a lack of attention.

Q. Are you speaking from personal knowledge now?

A. I am; I had some trouble with him myself, as a boy.

Q. Did you ever work in his place?

A. No.

Q. How do you know he was that inefficient?

A. Because he has, you might say, bragged about it, saying he did not have to send in any sales reports if he did not want to.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Did you work under this former agent, as a "Post" boy?

A. I did; yes, sir.

Q. And you tried to make some statement as to the effect of the increase in this bond, if any, in your financial arrangement, and Mr. Spiess did not wish you to finish at that time. Will you state what effect, if any, the increase in this bond had on your financial arrangements?

A. It did not change them, except the advanced money which I had been formally putting up for copies, just about covered this increase in the bind. The advance money did not draw any interest, while this bond is drawing interest, and it was really a better financial investment than under the former contract.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. You say this money you put up on the increased cash bond was not drawing interest before?

A. I said the money I put up on the advanced copies did not draw interest. The money I put up on the bond before drew interest. But this bond draws

money and the excess over the bond is nearly the sum I was putting up before on the advanced copies.

Q. The interest you would draw on this increase in your cash bond is not very substantial, is it?

A. No, sir; but the saying is "Every little bit helps."

HARRY PECK, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Peck?

A. 566 Seventh Street, Brooklyn.

Q. And your place of business is——

A. 326 Ninth Street, Brooklyn.

Q. Are you the district agent there?

A. Yes, sir; in my district.

Q. What territory does your district cover?

A. South Brooklyn, Bay Ridge, part of the Bedford section and Flatbush.

Q. How long have you been the Curtis district agent?

A. I have been with the Curtis Publishing Company for over eight years.

Q. Were you district agent all that time?

A. Yes, sir.

Q. Are there any other magazine wholesalers in your locality?

A. Oh, yes; about three, I should say.

Q. Who are they?

A. To the best of my knowledge, the American News Company, the Hearst direct delivery; the "Evening Mail" has their own distribution down

there, who is distributing other magazines, and probably one or two other small ones up there.

Q. They are wholesalers of magazines—is that correct?

A. Yes, sir.

Q. Do you wholesale any other magazines than the Curtis magazine?

A. Frank A. Munsey magazines.

Q. How do you distribute your magazines?

A. Horse and wagon—teams.

Q. Do you distribute that way to the dealers?

A. To the dealers and some of the boys.

Q. What magazines did you handle first?

A. Curtis publications.

Q. How many boys have you?

A. About 200.

Q. Do you report them to the Curtis Publishing Company?

A. I report mine and my sub-agents report theirs.

Q. How many sub-agents do you have?

A. About seven.

Q. What magazines do these boys handle?

A. Outside of about five per cent. of them, they handle Curtis publications only.

Q. And the other five per cent.?

A. Are newsboys, as I call them.

Q. What work, if any, have you done in building up this boy-agency?

A. Carrying out the plans of the home office and the New York office. They have always some source of inducement for the boys to sell copies, money, vouchers and special prizes, and the club plan and positions offered after the boy becomes a master salesman.

Q. Have you had any league members?

A. Yes; several.

Q. Do you have any general meetings with these boys?

A. Yes; I do.

Q. What kind—describe them.

A. Up to about two years ago we used to hold Ten Club meetings about two times a month. They called it that, because the boy had to sell ten copies before he could become a member.

Q. That Ten Club was afterwards merged into the League?

A. Yes, sir.

Q. What are these boys—the ninety-five per cent. who handle Curtis publications alone?

A. Practically all school boys.

Q. Are they engaged in any other work?

A. Not to my knowledge.

Q. Have you any aid or co-operation from the Curtis Publishing Company in building up this boy business?

A. Considerable.

Q. In what way?

A. Well, we, being so closely located in connection with the New York office, we generally manage to get the promoters in our section to go around the schools and give them cards—give our cards—that entitle them to free copies of the "Post" and "Country Gentleman" and "Ladies' Home Journal," and also offer extra vouchers and prizes.

Q. How many "Posts" do you handle?

A. About 7000.

Q. A week?

A. Yes, sir.

Q. How many "Country Gentlemen"?

A. About 1000 "Country Gentleman" and about 340 "Ladies' Home Journal."

Q. Are you under the new form of contract?

A. Yes, sir.

Q. When did that go into effect?

A. I think January 8th.

Q. What is the difference in the practice under the new contract and the practice under the old contract?

A. Well, the copies are consigned to us, where they were not before.

Q. You pay for them after they are sold, do you?

A. Yes, sir.

Q. Has your bond been increased?

A. Yes, sir.

Q. Have you during the course of your agency, received other sums of money as bonuses or prizes, in connection with this business?

A. During the year 1917, about $1000 in bonuses.

Q. And in other ways you have received some bonuses, too.

A. Yes, sir.

Q. It is a material element in your business?

A. Quite some.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is the population of Brooklyn, Mr. Peck?

A. About 2,000,000, according to the last statistics.

Q. How many other wholesalers did you testify were there?

A. Why, in my section about three or four—something like that.

Q. What do you mean, in your section?

A. In my territory.

Q. Brooklyn?

A. Not Brooklyn, but my district, that I cover.

Q. What is that district?

A. South Brooklyn, Bay Ridge, part of the Bedford section and Flatbush.

Q. Do you know what the population is in your district?

A. I judge about half a million.

Q. Do these three other wholesalers serve any territory outside of your district?

A. Some do; you cannot have any exact boundary lines in our territory.

Q. Do you know any of them do?

A. I think some do.

Q. Who are they?

A. The American News Company is one of them.

Q. That leaves two—where do the other two serve?

A. I do not keep track of them, but they serve other districts than mine.

Q. What do the other two wholesale?

A. Some wholesale "Hearst's" and some wholesale "Every Week" and "Pictorial," and I think the Interborough News Company serves part of my territory.

Q. Is the Interborough one of the two other wholesalers that you mentioned in your territory?

A. One of the two or three or maybe more.

Q. How many do you know of?

A. I really do not keep track of them.

Q. How many do you know personally?

A. I know the Interborough man, who has the agency there, and the man who has the agency for the "Mail."

Q. The "Evening Mail"?

A. Yes, sir; I know him personally.

Q. What does he handle outside of the "Evening Mail"?

A. I think he handles some German papers.

Q. What magazines?

A. He handles the "Pictorial Review."

Q. Any other magazines?

A. I could not tell you.

Q. What does the other wholesaler handle in that territory?

A. I think "Every Week" is being handled by the Interborough and "Jim Jam Jems" is being handled by someone else there.

Q. You are the big wholesale distributor in your territory, are you not?

A. The American News is the biggest.

Q. And you are the biggest outside of the American News Company?

A. I think we are; yes.

Q. You say all of your Curtis boys are school boys?

A. No; I said about ninety-five per cent., I should judge.

Q. If I am correct, I think you testified about ninety-five per cent. of your boys were Curtis boys, and only five per cent. handled newspapers.

A. That is right; that is what I said now.

Q. I asked you if you did not say all of your Curtis boys were school boys?

A. Practically all; yes, sir.

Q. Do you know of any other business in your district that could use two hundred boys after school?

A. Do I know of any other business in my district that could use two hundred boys after school?

Q. Yes.

A. Yes, sir; many businesses could use boys. We have had soap manufacturers after us trying to get boys to sell that; at the present scarcity of labor, I think many firms could use boys.

Q. Do you know of any industry in your district that has the need for boys after they get out of school——

A. Well, we are right near the Bush Terminal factories and they could use our boys.

Q. Do they employ any boys?

A. I do not know.

Q. You do not know of any industry that could handle school boys after school?

A. They could use them—the Bush Terminal factories and firms could use plenty of boys after school hours.

Q. To do what?

A. In work that is useful.

Q. What do they use them for?

A. That is not the question you asked me.

Q. I am asking it now—what do they do?

A. They have large factories and they are always advertising for boys.

Q. To do what?

A. To do light work in the factories.

Q. They would require these boys to work at night, would they not?

A. No; the Mint Products Company is advertising for boys to work after school.

Q. Did you ever handle "Pictorial Review"?

A. No, sir.

Q. Did you ever attempt to handle it?

A. I did.

Q. What stopped you?

A. Why, the Curtis Publishing Company.

Q. Did you ever try to handle "Every Week"?

A. I did not try; we were offered "Every Week" by the Interborough News, but we did not care to do business with them, because we could not do business direct.

Q. The Interborough offered you the agency?

A. Yes, sir; and all publications at that time. Mr. Myers offered it.

Q. Offered you the agency for "Every Week" in that territory?

A. Yes, sir.

Q. Who is Mr. Myers?

A. I believe he is connected with the Interborough.

Q. Don't you know?

A. I know he is there, but I do not know how much he owns in stock, or anything like that.

Q. You said you made a new contract?

A. Yes, sir.

Q. What was the cash bond that you had to put up under the old contract?

A. Five hundred dollars.

Q. What was your cash bond under the new?

A. Fifteen hundred dollars.

Q. Do you know why your cash bond was increased?

A. I believe I do; it was due to the fact that our copies are consigned to us and we do not have to pay for them in advance.

Q. This increase in your cash bond was simply to take the place of your advanced payments before, is that so?

A. Yes, sir.

Q. Now, you say that under this promotion scheme of getting boys, you give free copies to the boys?

A. It is not a case of free copies. They give them five "Ladies' Home Journals," and they give them a card which entitles them to five "Ladies' Home Journals," and five "'Country Gentleman," which is a dollar, and that opens up a sort of savings account for them and the boys are thus put into business.

Q. Do they give them five "Posts"?

A. At times they do; yes, sir.

Q. When the boy sells those, he agrees to come back and purchase others?

A. Verbally; yes, sir.

Q. You get paid for those magazines, don't you?

A. We get three cents allowed from the Curtis Publishing Company for the "Posts" and eleven cents for the "Ladies' Home Journal"; that is, three cents

a copy for the 'Gentleman'' and eleven cents for the ''Ladies' Home Journal.''

Q. What do you get from the ''Post''?

A. Three cents from the boys for the ''Posts.''

Q. In other words, the Curtis Publishing Company pays you for these copies you give to the boys just the same remuneration as if you sold them to the boys—is not that true?

A. Yes, sir; that is true.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Do you know who handles the Hearst magazines and papers in your district?

A. I do not know, but I think the same man who delivers the ''Journals.''

Q. Do you know his name?

A. I could not tell you.

Q. Or ''Collier's.'' Who wholesales ''Collier's''?

A. I think they are wholesaled by the Interborough.

Q. Have you any business other than this wholesaling business?

A. Yes, sir; distributing general literature and some advertising.

Q. Was this bond increase perfectly satisfactory to you?

A. Yes.

ROY M. WOODSTOCK was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Woodstock?

A. Springfield, Mass.

Q. How large a place is that?

A. It is estimated, I believe, at 120,000 population.

Q. Do you handle the Curtis Publishing Company's magazines at wholesale there?

A. I do.

Q. You are the district agent there, I believe?

A. Yes, sir.

Q. How long have you been agent there?

A. About three years and a half.

Q. Are there any other wholesalers of magazines at Springfield?

A. There are.

Q. Who is there?

A. The Springfield News Company and Thomas J. Ashe and Harold E. Walton, the newspaper agent.

Q. What does the Springfield News Company handle?

A. Practically all magazines.

Q. Has that anything to do with the American News Company?

A. I believe it has.

Q. What does Mr. Ashe handle?

A. He has the "Pictorial Review," the "Argosy," "All Story," the Munsey publications, the Hearst publications, the "Literary Digest," "New York Times," "Midweek Pictorial" and "Pearson's"—probably a few others.

Q. What magazines do you handle there, other than the Curtis?

A. "Spur Magazine," and "Etude."

Q. Mr. Ashe handles more magazines there than you do?

A. Yes, sir.

Q. How do you distribute your magazines?

A. By automobile.

Q. To the dealers?

A. Yes, sir.

Q. You have boys, have you?

A. Yes, sir.

Q. How do you distribute to them?

A. Some of the boys come after them, and some of them I deliver to them.

Q. How many boys have you, all told?

A. Approximately eighty.

Q. What magazines do they handle?

A. "The Saturday Evening Post," "Country Gentleman" and the "Journal."

Q. They only handle Curtis magazines?

A. That is all. I have one exception—one boy that takes four "Women's Home Companions." I charge him thirty cents for them. I split up with them.

Q. When you took the agency, were any boys turned over to you?

A. Yes, sir.

Q. How many?

A. I should say about forty.

Q. How have you recruited this staff of boys?

A. Through the efforts of the Curtis Publishing Company and myself getting new boys.

Q. What do you do about boys' meetings?

A. We have meetings every two weeks at the Y. M. C. A. up there. We have had meetings—I have had meetings where I have invited all the boys I could find that were good candidates for the work.

Q. What happened at the meetings?

A. We have a meeting—some business men speak to them; some form of entertainment—get the names of the boys, distribute cards, and five free copies to the boys, try to interest them and get them started.

Q. The Curtis people co-operate with you in those efforts?

A. Yes, sir.

Q. What are most of these boys?

A. They are school boys.

Q. What percentage of them?

A. One hundred per cent. I don't know any boy that I have got but what is attending school at the present time.

Q. Are you under the new contract?

A. Yes, sir.

Q. Under that contract was your bond increased?

A. Yes, sir.

Q. What other magazines did you say you handle?

A. Why, the "Spur" magazine, and the "Etude."

Q. Have you ever been asked to handle the "Pictorial"?

A. Yes, sir.

Q. When was that?

A. I should say it was a year ago last March.

Q. How were you asked to handle it?

A. By letter.

Q. Through what means were you asked to handle it?

A. The agency was first offered to me as a sort of a branch.

MR. DALY: Mr. Examiner, I don't want to object. This was all testified to—this part of it, in Boston. He was cross-examined on that subject. It seems to me that ought to be sufficient.

By MR. MILBURN:

Q. Were you asked to handle the "Pictorial," through boys?

A. Yes, sir.

Q. That was all I was driving at. I did not want to suggest it to you. Did you take it on?

A. No, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You say you were asked to take on the "Pictorial Review," by letter?

A. Yes, sir.

Q. Have you that letter?

A. No, sir.

Q. What became of it?

A. I believe I gave it to Mr. Flanders or Mr. Douglas—I can't say which.

By MR. MILBURN:

Q. Was this letter you received from "Pictorial" a form letter or personal letter, do you remember?

A. I could not really say. I would not dare say yes or no.

By MR. SPIESS:

Q. How many letters did you receive from the Pictorial Review Company about handling your magazine?

A. I received two.

Q. Have you either one of them?

A. I think not.

Q. What became of the other one?

A. I think I gave them both to the representatives of the Curtis Company.

Q. Do you know what the other letter contained?

A. The first letter contained a proposition in regard to supplying Seiger and Company and myself to sell to boys.

Q. What did the other one contain?

A. The other one offered me the agency for the entire city.

Q. Did it say anything about handling boys?

A. I can't say the second letter did.

Q. Did you receive a second letter from "Pictorial Review," telling you that they did not want to handle their magazines through boys?

A. I can't remember any proposition like that being made to me, no, sir.

Q. Did you ever take on the "Pictorial Review"?

A. I ordered 100 copies at the same time I wrote the home office.

Q. Well, what became of them?

A. The 100 copies I never received.

Q. Why didn't you receive them?

A. I don't know. As near as I could find out from talking with representatives of the "Pictorial" people they went astray.

Q. You wanted to handle "Pictorial Review," did you not?

A. I did at that time, yes, sir.

Q. Why didn't you continue to want to handle it?

A. Because my Curtis agency would have been cancelled if I had taken it on.

Q. How do you know it would?

A. I had a letter to that effect from Mr. Douglas.

Q. Have you a new contract with the Curtis Company?

A. I have.

Q. Does the new contract permit you to take on the "Pictorial Review"?

A. No, sir.

MR. MILBURN: I object to that question, just on the use of the word "permit." The contract speaks for itself and I move the answer be stricken out.

MR. SPIESS: I do not care. Strike it out.

THE WITNESS: Indirectly, with the permission of the Curtis Publishing Company—I will take that back. I will correct my answer, when I stop to think of how my contract reads.

MR. SPIESS: Were you objecting?

MR. MILBURN: I did not want to have in the record the contract described as permitting.

EXAMINER MOORE: The objection is sustained, and the matter will be stricken from the record.

THE WITNESS: I really did not answer that question correctly, when I stop to think of the contract.

MR. DALY: Strike that out. You were not answering any question, because the question was stricken out.

By MR. SPIESS:

Q. What else do you handle besides Curtis publications?

A. I put out some copies of the "Spur" magazine and the "Etude."

Q. What other business are you in besides wholesaling magazines?

A. Retail cigar and news store.

Q. What is the population of Springfield?

A. I believe it is estimated as somewhere around 120,000.

Q. How long has Mr. Ashe been a wholesaler in that territory?

A. For a number of years. I could not say how long.

Q. Before you?

A. Yes, sir.

Q. What magazines does he handle, do you know?

A. Why, he handles the Munsey publications, the Hearst publications, the "Literary Digest," "Pictorial Review," "Pearson's," "New York Times," "Midweek Pictorial," "Collier's," and he has the "New York Evening Telegram."

Q. He handles "Pictorial" now, does he?

A. Yes, sir.

Q. You spoke of having meetings at the Y. M. C. A. for boys?

A. Yes, sir.

Q. Are these meetings attended by Curtis boys exclusively?

A. No, sir.

Q. You had meetings up there?

A. I have had meetings that were open to all boys.

Q. Are you a member of the Y. M. C. A.?

A. Not at present. I have been.

Q. How long ago has it been since you were a member of the Y. M. C. A.?

A. I dropped out last summer.

Q. Did you ever hold any office in the Y. M. C. A.?

A. No, sir.

Q. Just a member?

A. Just a member.

Q. Have you held any meetings for boys up there since you dropped out?

A. Oh, yes.

By Mr. Daly:

Q. What you mean is that the Y. M. C. A. holds the meetings; is not that it?

A. No; I cannot say that.

Q. You mean the Curtis Publishing Company does the work of getting boys up there entirely?

A. Through me, yes, sir; with the help and co-operation of the boys' secretary up there.

Q. I am speaking of what is done at these meetings? What is done there?

A. The boys have a meeting. We have an organization and we talk of salesmanship.

Q. Do you talk to all of the boys that are there?

A. All of the boys that are there at our meetings.

Q. Whether they are your boys or anybody else's boys; is that right?

A. Yes, sir.

By Mr. Spiess:

Q. You say you talk of salesmanship?

A. Demonstrate salesmanship. We get the boys to sell a copy and offer a prize to the boy that makes the best sale.

Q. What do you do to demonstrate salesmanship?

A. I say one proposition is to get a boy to sell, and we will ask three or four boys to try to sell a copy, and the boy making up the best proposition wins the prize.

Q. You mean the boy writes out a proposition?

A. No, sir; he talks it.

Q. Gets up and talks it?

A. Talks it.

Q. What is the best way to approach customers to buy magazines?

A. Yes, sir.

Q. Who passes upon the superiority at these contests?

A. The boys vote on it themselves.

Q. The boys themselves vote on it?

A. Yes, sir; I might add there is Mr. Stoddard and myself——

Q. That is all right. What was the cash bond under your old contract?

A. Two hundred and fifty dollars.

Q. What is the cash bond under the new contract?

A. Seven hundred dollars.

Q. What is your circulation of the "Post"?

A. Why, approximately 2700 net.

Q. What do you mean by net?

A. I mean the net circulation, after the returns have been deducted from my drawings.

Q. What is your drawing?

A. From 2850 to 2900, sometimes more—2950.

Q. That is per week?

A. That is per week.

Q. What is "The Ladies' Home Journal"?

A. The drawing is 2500 or 2600.

Q. And "Country Gentleman"?

A. Drawing 650 copies.

Q. Do you know why your cash bond was increased, under your new contract?

A. Yes, sir.

Q. Why?

A. As a security for the copies advanced to me.

Q. Is that the only reason?

A. Why, as a security that I will carry on my contract faithfully.

Q. What did your advance payment to the Curtis Company amount to on your "Posts," under the old contract?

A. Approximately $85 or $90 a week on the "Post" and "Country Gentleman."

Q. What did they amount to on "The Ladies' Home Journal"?

A. Two hundred to $230 a month.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

EXAMINER MOORE: You are excused. We will take a recess until 2 o'clock.

(Whereupon, at 12.30 o'clock P. M. a recess was taken until 2.00 o'clock P. M.)

AFTER RECESS.

HENRY P. CROSSLEY, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Crossley, where do you live?

A. I live in Caldwell, New Jersey.

Q. Are you a Curtis district agent in that vicinity?

A. Yes, sir; I am.

Q. What towns do you cover?

A. I have Caldwell, Verona, Montclair and the three outlying towns of Essex Fells, Roseland and Overbrook.

Q. How long have you been district agent there?

A. For Caldwell and the three small towns, for almost two years—since May, 1916.

Q. Your territory has been slightly enlarged?

A. Enlarged since.

Q. What is your other business?

A. I am in the insurance business here in New York, Fidelity & Casualty Company, 92 Liberty.

Q. How do you handle these towns for the Curtis people?

A. I handle it by promotive work in the evenings of the week and on Saturday afternoons, occasionally Sunday.

Q. You have sub-agents?

A. I have branch agencies.

Q. Are those boys you have appointed as branch agents?

A. Yes, they are boys, with the exception of two which happen to be adults.

Q. Were you connected with the Curtis Company before you became district agent?

A. Yes.

Q. And what were you, a "Post" boy, originally?

A. Yes, sir.

Q. For how long?

A. Why, I was a "Post" boy for about ten and a half years.

Q. Did that start your business career? Was that the first business you had?

A. That is the first business I had.

Q. How many boys have you, all told?

A. Altogether I have fifty-three boys. If you want to include the branch agents, there are four branch agents.

Q. Fifty-two and four?

A. Fifty-seven.

Q. Do you know them personally, most of them?

A. Why, I know personally seventy-five per cent. of the boys as being old boys. Of course, it is hard to keep in touch with the new boys, as they come on and off.

Q. What are the most of them?

A. I don't understand the question.

Q. Are they school boys, or working boys, or what are they?

A. As far as I know, they are all school boys.

Q. You spoke of promotive work. What do you do along those lines?

A. The promotive work is principally backed up by the home office and they generally start things—start the ball rolling, you might say, and then I keep it going, and what work I do on my own hook is starting local prize contests and also getting the boys together and talking to them, citing incidents in my own career and help them out to sell papers.

Q. Do you handle only the Curtis magazines?

A. Only the Curtis magazines.

Q. Are the other magazines wholesaled in your district?

A. There are two wholesalers in Montclair, one who was a Curtis wholesaler by the name of Hoosick Brothers, and there is at present a wholesaler in Montclair who wholesales "Every Week" and those magazines.

Q. What other magazines does he handle?

A. He retails all other magazines, but he just wholesales those particular ones, but I don't know what the group is.

Q. When you said this other man used to be a Curtis agent, he was there before you were there?

A. He was there before I was, but not directly.

Q. What magazines does he handle?

A. He does not wholesale any magazine at present.

Q. Do the retailers in the district get their magazines, in many instances, from you?

A. Well, every dealer in my territory, barring one, gets all of his Curtis papers from me.

Q. I mean the other magazines?

A. Oh, the other magazines—well, the "Hearst," "Pictorial Review" and several other magazines—in fact all of the magazines, barring "Every Week" are secured from Newark, generally from the Newark News Company.

Q. What is the Newark News Company?

A. That is a branch of the American News.

Q. Is there another wholesaler there?

A. There are wholesalers down in Newark; then there was another wholesaler who used to be a wholesaler for several magazines, but I understand he has sold out to the Metropolitan News Company.

Q. Do you wholesale?

A. Yes.

Q. How do you distribute your magazines? How do these branch agents of yours get them?

A. The copies come direct to my home branch agents from Philadelphia, and they come direct to two of my outlying towns which are not conducted on the branch agency system.

Q. They come to the branch agent, or to your man in charge. Then how does he distribute them to the retailer?

A. He distributes them personally himself. He has a push-cart or a wagon. What method he has—some times he has a wagon, some times he carries them. It is according to how big or thick the "Posts" are a week.

Q. And the boys come and get them?

A. And the boys all come and get them.

Q. Are you under the new form of contract?

A. I am.

Q. And under that, when do you pay for your magazines?

A. I pay after the sale.

Q. What is the Newark Newsdealers' Supply Company?

A. The Newark Newsdealers' Supply Company is —they are wholesalers there. They used to be agents for the Curtis people in Newark. They are not a branch of the American News Company.

Q. They wholesale magazines throughout this district?

A. Yes; they do.

Q. So that there are several wholesalers dealing in the territory, are there?

A. But the principal of them are located down in Newark.

Q. These towns are pretty close together, are they not? How far is Caldwell from Newark?

A. Caldwell is twelve miles from Newark; Montclair is seven miles.

Q. Upper Montclair?

A. Upper Montclair is about the same distance from Newark. Verona is between Montclair and Caldwell.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Where are you from?

A. I live in Caldwell, New Jersey. I represent the towns of Montclair, Upper Montclair, Verona, Caldwell and the three outlying towns of Essex Fells, Roseland and Overbrook.

Q. Where do you receive your publications from the Curtis Company?

A. I have branch agents in the four largest of the towns mentioned, and the copies are ordered by me and are sent direct from Philadelphia to these branch agents.

Q. To you direct; where do you get them?

A. I don't understand the question.

Q. Don't you get any direct to yourself?

A. Not direct to myself.

Q. Where is the Metropolitan News Company operating?

A. They are located in Newark, but they operate all throughout my district.

Q. Do they wholesale the "Ladies' Home Journal"?

A. Yes; they do.

Q. Where do they get theirs?

A. They secure them direct from the company.

Q. Do you wholesale the "Home Journal"?

A. I do.

Q. Then there are two of you Curtis agents, so far as "The Ladies' Home Journal" is concerned; is not that true, in that territory?

A. That is right.

Q. Do they wholesale "The Saturday Evening Post"?

A. They do.

Q. Do you know how many copies of the "Post" they wholesale in that territory?

A. Well, they don't wholesale any "Saturday Evening Posts" or any of the Curtis Publishing Company's papers in my territory. They just have Newark. They can't come over in my territory to sell papers.

Q. Now, in your territory how many wholesalers are there other than you?

A. There are two in Montclair and one in Caldwell.

Q. What do they handle?

A. Robinson, in Montclair, handles "Every Week," and that grade of papers, wholesale.

Q. What do you mean by that?

A. That group of papers.

Q. What do you mean by that group of papers?

A. There is a group of papers—I know "Every Week" and the "American"—there is a group of them—they have a name like Hearst's.

Q. Do you mean the "Women's Home Companion" that is published by the Crowell people?

A. That is the name, Crowell.

Q. He handles the Crowell group?

A. He handles the Crowell group.

Q. Does he handle anything else?

A. I don't think he does.

Q. Do you know whether he gets his supplies direct from the Crowell Publishing Company?

A. I don't know what method he has of receiving his papers.

Q. Does he wholesale newspapers?

A. He does.

Q. How long has he been agent for the Crowell people, do you know?

A. Well, the first I ever heard of his being agent was along last December.

Q. 1917?

A. 1917.

Q. What does the other wholesaler in Montclair handle?

A. As far as I know now, he is not at present wholesaling any magazines, but he has wholesaled magazines.

Q. When did he stop?

A. He stopped along in May, 1917—along in April or May, 1917.

Q. Do you know what he was handling when he stopped?

A. He was handling the Curtis papers.

Q. Handling anything else?

A. I don't know whether he did or not.

Q. Didn't you succeed him in Montclair?

A. No; I did not.

Q. Who succeeded him?

A. A young fellow by the name of George Brown came between he and I.

Q. He succeeded?

A. Foosick Brothers.

Q. Do you know why that agency was changed?

A. Why, I understand that Foosick Brothers were unsatisfactory agents.

Q. Did they handle "Pictorial Review"?

A. Well, they retailed it. They didn't wholesale it.

Q. Now, what is the next place?

A. Caldwell. We have a newspaper wholesaler, wholesales just the "Newark Evening News."

Q. Any other one?

A. There is no other wholesaler so far as I know personally.

Q. They are the only magazine wholesalers in that territory?

A. That is right.

Q. Any other place; now, you serve what other districts outside of those two?

A. Montclair and Caldwell and Verona. In Verona there is one dealer that I know of who has wholesaled magazines, but for some reason or other he discontinued, because it is a very small town, and there was not enough, evidently, to make it a paying proposition.

Q. Was he the only one besides you?

A. In that town?

Q. Yes.

A. Yes, sir.

Q. At present you are the only one?

A. I am.

Q. How long have you been serving that town?

A. Since May, 1916.

Q. Are there any other towns now that you serve?

A. Upper Montclair.

Q. How many are there?

A. There are none, to my knowledge, but I don't think there would be very much difficulty in inducing some of the news dealers up there, because it is a very paying community for magazine sales.

Q. How many boys have you altogether?

A. I have fifty-three boys who retail magazines, and then I have four branch agents.

Q. How often do you have to get new boys?

A. Branch agents?

Q. No; new boys to handle Curtis publications?

A. That is a matter of times and tides. They come and go. We have about seventy-five per cent. which are steady boys, generally stick until they move away or become too old to sell magazines.

Q. Were you ever approached to handle "Every Week"?

A. I was not.

Q. Were you ever approached to handle "Pictorial Review"?

A. No, sir.

Q. Who handles "Pictorial Review" now in that territory?

A. The American News Company is the only one I know of that has a wholesale agency, that supplies our district. The reason I say that is because in Cald-

well there are three news dealers who sell "Pictorial Review," and they all get them from the American News Company.

Q. How many retailers are there in your territory?

A. News dealers, you are speaking of?

Q. Retail dealers in magazines?

A. Why, about twenty-five.

Q. Does the Newark News Company serve in your territory?

A. They serve forty Curtis papers to one news dealer in Caldwell, and they have—they serve the American News Company stands, located at each station in that territory.

Q. The Newark News Company is a Curtis agent?

A. Well, they have an arrangement, as I understand it, by which they get their copies on a non-returnable basis.

Q. From the Curtis Company?

A. From the Curtis Company, under contract. I don't know whether that is true or not.

Q. Have you made a new contract with the Curtis Company?

A. I have.

Q. When did that take effect?

A. In the latter part of January, this year. I don't know the exact date.

Q. Do you know what the occasion was for changing over to the new contract?

A. I don't understand the question.

Q. Was anything said to you by any employee of the Curtis Company as to why they wanted you to change over to the new contract?

A. The only reason I was requested to change my contract was the advantages of that contract over the previous contract which I held.

Q. What are those advantages?

A. The privilege of paying after the copies are sold, rather than before, a full return basis, rather than a fifteen per cent. basis, as before; also a longer length of time by which I could get my returns in. Those are the principal advantages.

Q. Do you know whether there is anything in the contract about full returns?

A. There is a clause regarding full returns.

Q. Do you know whether the contract says in just that many words, "full returns"?

MR. MILBURN: I object to that. The contract speaks for itself.

MR. SPIESS: I am asking if he knows.

MR. MILBURN: I make the objection.

EXAMINER MOORE: The objection is sustained. The contract speaks for itself.

By MR. SPIESS:

Q. What was the amount of your bond under the old contract?

A. Sixty-five dollars. I had two contracts before, a total of sixty-five dollars.

Q. How many contracts have you now?

A. One.

Q. What is the amount of your cash bond?

A. One hundred and seventy-five dollars.

Q. What is the circulation weekly of the "Posts" that you handle?

A. It varies between 775 and 800. I could sell more, but cannot get enough copies.

Q. Now, what is the circulation of "The Ladies' Home Journal"?

A. We average about 850.

Q. What is the circulation of "The Country Gentleman"?

A. The average is between 125 and 150.

Q. Was that about the same under the old contract?

A. I don't understand you.

Q. Was your drawing under the old contract just about the same as now, under the new?

A. They have increased since I have had the new contract. I am speaking just of current sales.

Q. You have increased your drawing since?

A. Since I have had the new contract.

Q. Do you know why your cash bond was increased?

A. As a protection to the company—necessary protection on account of I might want to go away and leave them in the lurch—not pay my bills.

Q. Is that all?

A. Is that the only reason? That is the only reason that I know of. It is better for me, rather than before, because the money that I had as working capital has been transferred to this bond, which draws five per cent. interest. I am making five per cent. more on my money than I was before.

Q. Do you know whether or not this increase in your cash bond was practically the same as you were remitting, in advance, under your old contract?

A. It amounted to about what would be my price for the sale of one issue of every paper.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. To what cause do you attribute the increase of your circulation under the new contract?

A. Well, I don't think the contract had anything to do with it.

Q. That is just what I wanted to find out. Has the fact that you are under the new contract anything at all to do with the circulation?

A. No; the promotive work which has been carried on since.

Q. Do you know who wholesales the Hearst magazines in Caldwell—where the dealers get them from?

A. I know one dealer who gets them direct from Hearst.

Q. Do you know whether any of the dealers get them from the Newark News Company?

A. Yes; they do.

Q. Is that true of Essex Fells?

A. There are no stores in Essex Fells.

Q. No dealers there at all?

A. None at all. It is an exclusive community. They don't allow stores in there.

Q. How many are there in Verona?

A. There are three news dealers in Verona.

Q. Do you know who supplies them with the "Cosmopolitan," "Heart's," and the other magazines?

A. There is one of those news dealers who is supplied by this one news dealer I referred to in Caldwell, who gets them direct, but it is not a wholesale basis. It is not as profitable for those news dealers, because this agent in Caldwell that I am referring to is not a wholesaler and he just tacks a little bit of commission on top of his price.

Q. He just gets them for all three?

A. That is it

Q. A sort of friendly arrangement?

A. That is all it is.

Q. How many dealers are there in Montclair and Upper Montclair?

A. There are about fifteen.

Q. Do you know where they get their copies of "Pearson's" and "Hearst's," "Cosmopolitan" and magazines like that?

A. I understand that some of those dealers deal direct with the company, and others deal with the American News Company. Some of them a little bit

from everywhere. Down there at Newark there are three or four branches or wholesalers.

Q. There are several sources from which they get their magazine supplies, are there not?

A. Exactly.

Q. Have you ever wholesaled any magazine except the Curtis ones?

A. That is all.

Q. They are the only ones?

A. Only ones.

Q. What is your age?

A. Twenty.

MR. MILBURN: That is all.

By MR. SPIESS:

Q. How old are you?

A. Twenty.

Q. How long have you been selling Curtis magazines?

A. Do you want me to go back to when I retailed them?

Q. Yes.

A. Twelve years.

MR. SPIESS: That is all.

(Witness excused.)

NORMAN A. CHASSIN was called as a witness in behalf of the respondent, and being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. I live in Eggertsville, in the town of Amherst.

Q. Now, in what you call the township of Amherst there are how many villages?

A. Eggertsville, Williamville, which is the largest; Gettsville, Snyder and Swanville; five.

Q. Are you the Curtis agent there?

A. I am the district agent.

Q. You cover those towns?

A. I cover the whole town of Amherst.

Q. They are very close to the city of Buffalo?

A. Eggertsville borders on the city of Buffalo, and Gettsville borders, I think it is Tonawanda, and Williamville borders on Clarence.

Q. What do you do outside of this agency?

A. I am a student at the University of Buffalo.

Q. How long have you been connected with the Curtis publications?

A. For about eight years.

Q. Did you begin as a "Post" boy?

A. I did.

Q. And you have gone along and been advanced until you now handle this territory?

A. Yes, sir; I advanced from "Post" boy to special agent, and am now district agent for the Curtis Publishing Company.

Q. What magazines do you wholesale?

A. Just the Curtis Company magazines.

Q. And you cover all the dealers in this town?

A. Yes, sir.

Q. Have you any boys in addition to that?

A. Yes, sir; I have six boys.

Q. How long have you had them? Which one has been with you the longest?

A. The one who has been with me the longest has been with me about two years.

Q. And they sell these papers at retail throughout this territory?

A. Yes, sir.

Q. You say you only handle the Curtis publications?

A. I do.

Q. How do the dealers there get the other magazines—from what wholesaler?

A. I understand that some get them from the Buffalo News Company and others from the Courier Company, of Buffalo, and I do not know but possibly the "Buffalo Evening News"——

Q. Do those Buffalo concerns deliver in Eggertsville, Williamsville, Gettzville, Thornville, and Snyder?

A. Yes, sir; and when they deliver the evening papers, they deliver the magazines with the evening papers.

Q. These are practically suburbs of Buffalo?

A. Yes, sir; people who have business in Buffalo go back and forth from the city of Buffalo to these suburbs.

Q. Are there any other wholesalers living out there or located there other than the Buffalo concerns you have mentioned?

A. For the evening papers, there is one, Nelson Hopkins.

Q. Does he handle any magazines?

A. No, sir; just the evening papers.

Q. Were you ever approached by the "Every Week" people or by the "Pictorial" people and asked to handle their magazines?

A. I was approached by the "Pictorial Review" people, but not by the "Every Week" people.

Q. When did the "Pictorial" people ask you to take their magazines?

A. I received two letters from them in 1917 and possibly the third one also came in 1917 or else in the first part of this year, 1918.

Q. Did you take them on?

A. No, I did not.

Q. You are familiar with Clause 13 in your Curtis contract?

A. Yes, sir.

Q. Did you ask the Curtis people about that?

A. Just as soon as I received the letters, I laid them on my desk for consideration, and I thought them over, and I thought inasmuch as I had the Curtis publications, and had been selling them for so long and that they had treated me fairly and squarely, and were doing the right thing for me, and, being a student at the University of Buffalo, I thought it would not be the right thing—I could not give it proper consideration—to take them up, because I could not give the thing proper consideration, and so I did not give them any further consideration, and the letters went into the waste paper basket.

Q. You never communicated with the Curtis people at all about it?

A. No, sir; I did not.

Q. How many "Posts" do you handle?

A. I sell 100 "Saturday Evening Posts" and 150 "Ladies' Home Journal" and 35 "Country Gentleman."

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is the population of the territory you cover?

A. Between 4500 and 5000.

Q. Do you get your supply of Curtis publications direct?

A. I do.

Q. How long have you been going to the University of Buffalo?

A. Well, last year, before September, I went off and on; that is, I was not a regular student. I was what you might call a special student. This year I began as a regular student. I am classed between a

freshman and a sophomore.

Q. You said you did not think it was fair and square to the Curtis Company to take up the "Pictorial Review"?

A. I did not.

Q. Don't you think it is fair and square to take on other lines of work if you are able to do it?

A. I was not able to do it.

Q. Well, if you were able to do it—would it be fair and square to take on other lines of work?

A. With due consideration; yes.

Q. Would the Curtis Company object in any way to your handling any other magazines?

A. They did not.

Q. Did you ever receive a letter from the Curtis Publishing Company calling your attention to Clause 13 in the contract?

A. I did.

Q. Do you know why they sent that to you?

A. Yes.

Q. Why?

A. I presume they sent it to me for the reason that other boys throughout the United States, in their army of 50,000 boys, had taken on some other publications, possibly the "Pictorial Review," being that they were receiving letters from the Pictorial Review Company similar to the letters I had received, and that the Pictorial Review Company was trying to use the Curtis Publishing Company's organization——

MR. DALY: Do you know that?

MR. WELCH: He was asked that.

By MR. SPIESS:

Q. Do you know that?

A. Do I know it positively?

Q. Yes.

A. It appears so from my case.

By Mr. Daly:

Q. That is what you judge by?

A And I had also a personal conversation with the roadman.

Q. What roadman?

A. I think it was with Mr. Wehner.

Q. Did Mr. Wehner tell you that, that these 50,000 or 40,000 boys had taken on this magazine?

A. I did not state that. I stated out of the army of 50,000 boys that the Curtis Publishing Company has, that some had taken on, undoubtedly, the "Pictorial Review." He did not state that to me, but he stated to me that the Pictorial Review Company was trying to get some of their boys.

Q. That is something else?

A. To sell the "Pictorial."

By Mr. Spiess:

Q. That was one of the reasons that guided you in not taking on the "Pictorial Review"?

A. It may have had some material bearing, but not enough to persuade my decision. The main thing that persuaded my decision was that I was a student at the University of Buffalo, and I expected later, in my college work, to go to the University of Notre Dame, and being out of town, I would possibly have to give up the Curtis work.

Q. You did not have time to take on any other magazine than the Curtis magazines?

A. No, sir.

Q. Have you a contract with the Curtis Publishing Company?

A. Yes, sir.

Q. A new contract?

A. No, sir.

Q. You still work under the old contract?

A. Yes, sir.

Q. Have you been approached to make a new contract?

A. I have.

Q. Who approached you to make a new contract with the Curtis Publishing Company?

A. Mr. Wehner, the road man of the Curtis Publishing Company.

Q. When was this?

A. He approached me on the subject about the middle of this month.

Q. But you did not make a new contract with him?

A. No, sir; I did not.

Q. Why?

A. My reason for not making the new contract with the Curtis Publishing Company was that I thought the next year, going away to Notre Dame University, in that case I would be gone from my home town, and I would have to take up my residence in Indiana, where the college is situated, and, in that respect, I could not devote any of my time to it, and I have no brothers or anyone else in the family to take up the Curtis work, and I wanted to get a boy before I signed the contract, to take it over, and I was looking around for a new boy and Mr. Wehner said he would endeavor to help me in that respect.

Q. Have you found a new boy yet?

A. I have not.

Q. When did Mr. Wehner show you the new contract—when did he come there to show you this new contract?

A. I was at his hotel, and he was at my father's office.

Q. How long ago?

A. The last time, possibly two weeks ago.

Q. You have not found a boy yet to handle your Curtis work?

A. No, sir.

MR. SPIESS: That is all.

H. P. CROSSLEY, recalled as a witness, testified further, as follows:

By MR. MILBURN:

Q. Have you received in the way of bonuses, or prizes, sums of money over and above any money you may have earned as commissions on selling Curtis papers?

A. I have.

Q. About what would that amount to?

A. Why, I remember distinctly of two particular prizes, one was $25 and another one $5 and the balance was—everything else I made in the way of bonuses was on "The Ladies' Home Journal" and "The Country Gentleman." I remember one particular bonus for "The Ladies' Home Journal" amounting to something like $16 for one issue and I had about $50 or $55—around about that amount, in the course of a year and a half.

By MR. SPIESS:

Q. When you get a bonus, it is on account of increased sales?

A. No; it is not.

Q. What is it?

A. It is for increased sales, some of them, and other bonuses are for new boys.

Q. Well, the boys all have——

A. For training the boys up to a certain standard of salesmanship.

Q. Have you ever received any money from the Curtis Publishing Company for training a boy?

A. I have.

Q. In what instances?

A. One boy particularly who was trained up to join the League of Curtis Salesmen in last December—the amount which I received for training that boy that far netted a dollar and a quarter.

Q. What did the boy have to sell, to get that far?

A. He has to sell thirty "Posts" per issue, twenty "Ladies' Home Journals" per issue, and ten "Country Gentleman" per issue.

Q. You do not get this money until he sells these certain quotas?

A. I get the money when he has been promoted to that rank.

Q. He is not promoted to that rank until he sells that number of copies per issue?

A. He has to sell those certain numbers for a certain length of time. He has to be selling papers for six months.

Q. He has to sell papers six months, but before he can become a member of this Curtis League, he has to sell that certain number, and then you get the bonus?

A. Then I get the money.

Q. You get this bonus for an increase in sales, do you not?

A. No, I do not; because in addition to increased sales, I get other bonuses.

Q. You do not get any bonus, however, until the boy has sold that number of copies?

A. No, sir.

J. M. WEHNER was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Wehner, where do you live?

A. My home is in Williamsport, Pennsylvania.

Q. Whom do you work for?

A. The Curtis Publishing Company.

Q. In what capacity?

A. Superintendent of agencies in western New York.

Q. What district do you cover?

A. Western New York, between Syracuse and Buffalo.

Q. Comprising what towns—will you give a list of a few of them?

A. Yes, sir; Buffalo, Rochester, Syracuse, Baldwinsville, Oswego, Auburn, Seneca Falls, Waterloo, Geneva and——

Q. In all, how many towns?

A. Twenty-four towns in my territory.

Q. Are you familiar with these towns—have you been in them yourself?

A. Yes, sir.

Q. And you know the Curtis agent there?

A. Yes, sir.

Q. How long have you covered that district?

A. Nearly two years and a half.

Q. During that time you have made constant rounds of the district?

A. Yes, sir.

Q. And have you, during the last two months, been engaged in making a specific investigation for Mr. Douglas?

A. Yes, sir.

Q. And finding out certain information asked by him?

A. Yes, sir.

Q. And have you made any formal reports in writing to the company of such information as you got?

A. Yes, sir; I furnished a report on each town.

Q. Did you investigate the thirty-two towns?

A. I investigated eight towns in Mr. Cook's territory, making thirty-two in all.

Q. How many towns are there in your district—in your own district?

A. Twenty-four.

Q. But you investigated——

A. Mr. Cook's territory.

Q. Who is he?

A. One of our superintendents of agencies, in the northern and eastern part of New York State.

Q. Are any of these towns or cities that you have given in your territory?

A. Yes, sir; all towns in my own territory.

Q. With his eight, it makes thirty-two that you reported on?

A. That is right.

Q. Of those thirty-two towns how many had only one wholesaler?

A. I will have to look that up—six.

Q. In those six towns, where there was one wholesaler, do you know what magazines he handled?

A. Why, because of the fact I made that investigation in eight towns not in my own territory I have no data on these eight towns, but all the data are on those pink and white sheets.

Q. That is, your report?

A. Yes, sir.

Q. Do you know how many of the wholesalers in these thirty-two towns wholesale only Curtis magazines?

A. Seventeen.

Q. Do you know how many of the others who wholesale magazines other than the Curtis magazines began their magazine business with the Curtis Publishing Company?

A. Began with the Curtis Publishing Company?

Q. Yes.

A Three.

Q. That is, of the balance?

A. Yes, sir.

Q. Three of the whole thirty-two—let me see if I understand. You do not mean to say that only three of the whole thirty-two began their magazine business with the Curtis Publishing Company?

A. Only three were wholesaling other magazines when they started with the Curtis Publishing Company.

Q. You mean, then, all but three?

A. All but three; yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. May I have those towns?

MR. MILBURN: Certainly (handing papers to Mr. Daly).

By MR. DALY:

Q. At Oswego, New York, how are the newspapers wholesaled, if you know?

A. The newspapers in Oswego were wholesaled by men employed by the Syracuse newspapers; that is, the out of town newspapers, except several New York newspapers, which are wholesaled by M. F. Casey.

Q. Who is he?

A. He has a bookstore there—bookstore, magazines and newspapers—general news dealer.

Q. Now, in Geneva, Mr. Mulcahy is your agent?

A. Yes, sir.

Q. And your report shows he handles the "New York American" and "Herald" and "Buffalo Courier," etc., and the Curtis magazines and "Literary Digest"?

A. Yes, sir.

Q. How long has he been your agent there?

A. Mr. Mulcahy has been our agent for at least five or six years.

Q. Who is Mr. J. G. Foster?

A. He is a news dealer.

Q. What does he handle?

A. He retails all magazines, and I understand from what Mr. Mulcahy tells me and from what Mr. Foster tells me himself he wholesales the "Pictorial Review."

Q. Do you know whether the "Pictorial" people tried to get Mr. Mulcahy?

A. No, sir.

Q. You did not ask that?

A. No, sir.

Q. Do you know when he took on the "Literary Digest"?

A. Since they have gone independent—within the last year or so.

Q. How big a place is Geneva?

A. Oh, less than 20,000.

Q. I notice on your report for Syracuse, that William E. Shoudy is your agent?

A. Yes, sir.

Q. How long has he been your representative?

A. Between six and seven years.

Q. Did he handle other magazines besides yours at any time during this period?

A. Wholesale?

Q. Yes.

A. Yes, sir.

Q. What did he handle?

A. The Munsey magazines, the Hearst group, "Literary Digest"——

Q. Does he handle them now?

A. No, sir.

Q. Do you know when he took on the "Literary Digest"?

A. At the same time that all the agents took on the "Literary Digest."

Q. You mean when they started independent?

A. Yes, sir.

Q. Did you have anything to do with the appointment of Mr. Shoudy as your district agent?

A. Me, personally?

Q. Yes.

A. At the time he was appointed district agent, I was in the home office.

Q. Do you know whether or not Shoudy is under the new contract?

A. Yes, sir.

Q. And is handling all these magazines you mentioned under the new contracts?

A. He now only handles the Curtis magazines.

Q. How long did it take to get Shoudy to take hold of your magazines?

A. I think Mr. Graves was up there several weeks; I do not remember exactly.

Q. Ten or twelve weeks, was it not?

A. I do not think so.

Q. It took a long while, did it not?

A. As far as I know, three or four weeks.

Q. At last he prevailed upon him to take hold?

A. Malan Brothers had it first, and then it was switched over to Shoudy. It did not take long to get Shoudy.

Q. Did Shoudy drop the other magazines when he took them on?

A. When he took our agency he was not doing anything.

Q. In order to get Shoudy, was it not necessary, as a matter of fact, to make him a guarantee?

A. A guarantee—what kind?

Q. Guarantee him so much money or give him a salary—besides the ordinary commissions?

A. I did not make the arrangements.

Q. Don't you know?

A. I do not think anything was guaranteed except the commissions.

Q. You do not know that?

A. I am not positive; no.

Q. When he made the new contract he gave up these other magazines, did he not?

A. No; he gave them up, I think, in January, and the new contract was entered into within the last month.

Q. What is that?

A. He discontinued handling the wholesaling of all other publications except ours three or four months ago, I think in January, and the new contract was entered into just a month ago.

Q. At the time he stopped these other magazines you do not know whether it was necessary to make him a guarantee?

A. No guarantee whatever.

Q. When he made the new contract, was it necessary?

A. No, sir.

Q. In this territory that you have talked about here you saw or investigated 24 towns—32 towns?

A. Yes, sir.

Q. Going over your associate's territory?

A. Yes, sir.

Q. All the magazine dealers of this number—wholesale magazine dealers—are Curtis dealers, except three. Is that correct?

A. Yes, sir.

Q. What three are those?

A. I would have to go through all of those reports and tell you that, all the thirty-two towns.

Q. I would like to get that from you?

MR. MILBURN: He can look through his things and give you those later on, Mr. Daly.

By MR. DALY:

Q. Now, I want from you the fifteen men that handle other magazines. You say seventeen of them handle only Curtis. I want you to tell me which ones handle other magazines?

A. I will have to do that from the reports.

Q. I wish you would go through them, will you?

A. Yes, sir.

By MR. MILBURN:

Q. Now, Mr. Daly has asked you for the wholesalers who handled magazines other than the Curtis magazines of the thirty-two. You have said that you would look them up. Can you give those magazines of the twenty-four towns in your own district?

A. Yes, I can in my own territory.

Q. Give us the ones in your own territory, and you can look the others up later; is that satisfactory?

MR. DALY: Yes.

THE WITNESS: Mr. Cook can give you the other territory. Now, what is your question, Mr. Daly?

By MR. DALY:

Q. The question is, you say that seventeen handled your magazines out of the number. Don't speak about Cook's.

A. Just the twenty-four towns of my own?

Q. Yes, twenty-four towns.

A. Well, some of these towns may be in his territory. Now, I can put it to you this way——

Q. Give me the names of the other wholesalers wholesaling magazines.

A. Give you the names of the agents that are selling other magazines besides ours?

Q. Yes.

A. Mr. Mulcahy, at Geneva; Mr. Plaster, at Lockport; Bickle Brothers, at Medina; E. J. Cannon, Niagara Falls; C. F. Shinners, Dunkirk, New York; Mason News Company, Jamestown; E. M. Oakleaf, Olean; that is all.

Q. Now, they are under the new contract, I presume, are they not?

A. Not all of them.

Q. What ones are under the new contract?

A. Plaster, at Lockport; Cannon, at Niagara Falls; Mason News Company, at Jamestown.

Q. Have you tried to put the others under the new contract?

A. No, sir.

Q. It is your purpose, I presume, to do so, is it not?

A. Yes, sir.

Q. Now, how many of them handle the "Pictorial Review"?

A. Medina, Dunkirk and Olean.

Q. How many handle "Every Week"?

A. Of those three?

Q. Yes.

A. Not any.

Q. How many of the seven, I mean.

A. Of the seven?

Q. Yes; is that what you had in mind when you said "not any"?

A. I meant the three. If you mean all seven I mentioned, Mulcahy, at Geneva, and Bickle Brothers, at Medina, have also taken on "Every Week."

Q. I asked you if you intended—if it was your purpose to change the contract with four of these gentle-

men who have not already been changed. You understood what I meant by that, did you?

A. Why, if they are still handling "Pictorial" when I get in there I presume they won't get the new contract. There will be a successor there.

Q. You will put a successor in there in that case?

A. Yes, sir.

Q. If you find they are handling "Every Week" you will do the same thing?

A. The same thing.

Q. Now, these are the principal men in those towns, are they not, in the magazine business—these seven?

A. I would not say so; no.

Q. Well, are any of them pretty large dealers?

A. Medina is a very small town, probably between 4500 and 5000 population, and Mr. Bickle has been dealer and wholesaler, and there is another there, Hunt and James.

Q. What do they handle?

A. They handle one of the Rochester papers, and I think several Warner papers.

Q. They don't handle any magazines, do they?

A. They do at retail.

Q. I am speaking now of wholesale.

A. I do not know. They did at one time.

Q. You made the investigation.

A. They did at one time.

Q. Do they now?

A. Not so far as I know.

Q. Now, what other town did you mention?

A. Jamestown.

Q. Who is the leading wholesaler there?

A. Mason News Company we consider the leading ones, because they handle our stuff, but there is another man there by the name of Jacobson who has

also three stores, the same as Mason—three retail newsstands, cigars, tobacco, etc.

Q. Retail newsstands are not wholesalers, are they?

A. Jacobson is also a wholesaler, yes.

Q. Wholesaler of what?

A. "Pictorial Review," Warner group.

Q. He has recently taken that on, has he not, the "Pictorial Review"?

A. Yes, sir.

Q. Now, take the other towns that you mentioned?

A. Olean?

Q. Yes; who is the leading one there?

A. Why, there are several stand about on a par. Mr. Oakleaf is one, and a man by the name of—I forget his name.

Q. Who is the Curtis man there?

A. Oakleaf.

Q. He is a large dealer, is he not?

A. He has a large stationery store there.

Q. He deals in wholesale?

A. Yes, sir.

Q. Large wholesaler of magazines, is he not, for that town?

A. Yes, sir.

Q. And he is under contract with you, is he not?

A. Yes, sir. The other man's name is Van Jordan.

Q. What does he do?

A. He handles newspapers, as well as the "Every Week."

Q. Does not handle other magazines, does he?

A. Not wholesale, that I know of.

Q. Now, then, go to the next town that we spoke about. What other town did you mention that we have not talked about?

A. Dunkirk.

Q. Who is your man there?

A. Mr. Shinners.

Q. Now, at Dunkirk your district man is C. F. Shinners?

A. Yes.

Q. And he handles the Warner group, the "Pictorial Review," and "Literary Digest." What else does he do there, if you know?

A. Why, he has a newsstand, sells tobacco, and he sells tickets—street car tickets for the P. & L. E. trolley line—sort of a waiting room.

Q. He handles the "Pictorial Review," and you expect to change him? Is that your testimony?

A. Yes, sir.

Q. Now, he is the leading man there in the magazine business, is he not?

A. I would not consider him so. I consider this man Van Jordan, as well as this man Donovan, equally as good as Shinners.

Q. Jordan handles "Collier's Weekly," the "Buffalo Times," "Buffalo News" and "Buffalo Express"?

A. Yes, sir.

Q. I am speaking of magazines.

A. Either one, newspapers or magazines.

Q. Well, he doesn't handle any magazines except "Collier's."

A. Well, he handles a retail line.

Q. I am speaking of wholesale. Confine your testimony to that.

A. Yes; I consider him just as good a man as Shinners.

Q. I know, but he does not deal in anything except "Collier's"?

A. I cannot help that. That is the fact.

Q. I am asking you whether or not he is the leading man in the handling of magazines?

A. He is the leading man, if you call volume of business leading, yes.

Q. He is really the principal man there in the magazine business?

A. If you are talking about the volume of business, Shinners of course is.

Q. I am talking about the volume and I am talking about the magazine end of it. Now, then, in Geneva, your agent is Mr. Mulcahy. I asked you about that before.

A. Yes, sir.

Q. The "Pictorial Review" agent is Mr. Foster there, is he not?

A. Yes, sir.

Q. What does he do?

A. He has a large book store, books, stationery and a line of that kind.

Q. He handles only the "Pictorial Review," however, in the magazine line?

A. So far as I know.

Q. That is your report?

A. Yes.

Q. That is correct?

A. That is the only thing I could get.

Q. Then Mr. Foster is not the biggest man there, is he? Your agent is really the leading man?

A. If you speak of volume in circulation, yes.

Q. What other town did you name?

A. Lockport.

Q. In Lockport there is only one wholesaler there, according to your report. What is his name?

A. Mr. Otto F. Plaster.

Q. He handles the "Buffalo Courier," the "Buffalo News," "New York Times," the Hearst group, Munsey group and "Literary Digest." Do you know whether he handles the "Pictorial Review" or not?

A. I think he did.

Q. What became of it?

A. When I got in town there and made that investigation he came to me—"You know I had Pictorial." I said, "Yes." I didn't say anything more about it. But he said, "I have arranged with another fellow to take it." I said, "All right."

Q. You were satisfied with that, were you?

A. That is all I said about it.

Q. You think he turned it over to the other fellow?

A. I understand he has, to a man by the name of Stevanski.

Q. Mr. Plaster is the leading wholesaler there, is he not?

A. Yes, sir.

Q. In fact, your report does not show anybody else?

A. This fellow Stevanski—I did not get his name and address that day and it was not put on that report, but I have since sent in a supplemental report to the company, giving the name and address of the man who handles "Pictorial," and "Every Week." His name is Stevanski and he is located on Main Street.

Q. What is his business?

A. Up-to-date cigar store and newspaper stand.

Q. He has never been a wholesaler before?

A. Not to my knowledge.

Q. In Medina your agent is Mr. H. A. Bickle?

A. Yes.

Q. And he sells the "Buffalo News," the "Buffalo Times," the "New York Times" and your publications. That seems to be the only one there, does it not?

A. Hunt and James.

Q. Well, they don't sell anything but newspapers, do they?

A. At wholesale, but magazines at retail.

Q. Does Bickle sell anything at retail too?

A. Oh, yes.

Q. He sells all of the magazines at retail?

A. They both have a store of about the same size.

Q. And who handles "Pictorial Review"?

A. Bickle.

Q. Your man?

A. Yes, sir.

Q. Well, he is one of the men you are going to change?

A. He has had his notice.

Q. That is on account of the fact he is handling "Pictorial Review"; is that correct?

A. I should say yes.

Q. Did you ask him to drop "Pictorial Review"?

A. No, sir.

Q. Do you know whether he has been asked to do that or not by anybody from your firm, or by letter?

A. He has the same letters that our agents received. That is all I know.

Q. He got a letter then to that effect; you know that?

A. He received that same letter that was sent out to the agents.

Q. But still continued to handle the "Pictorial"?

A. Yes, sir.

Q. And he is the only wholesaler there, is he not?

A. Of magazines, to my knowledge.

Q. What other town is there?

A. Niagara Falls.

MR. MILBURN: What was that question with reference to writing a letter?

MR. DALY: He said he has received the usual letter that has been sent out.

MR. MILBURN: You refer to the form letter?

MR. DALY: That is the way I understood him.

MR. MILBURN: There is no dispute about it?

MR. DALY: No.

By MR. DALY:

Q. Now, in Niagara Falls you have E. J. Cannon for your agent, and he sells the "Buffalo Express," the "New York Times" and your publications. That is correct, is it not?

A. Yes, sir.

Q. Do you know whether or not the "Pictorial Review" tried to get Cannon?

A. I don't know. I don't think he was offered the agency. I am not sure.

Q. You don't know about that?

A. No; I don't know.

Q. Now, where is Friel located? You have him here at Niagara Falls.

A. Friel has two places of business.

Q. Where are they?

A. One is way out on Main Street, and the other is right down town, called the Niagara News Agency.

Q. What does he do?

A. News dealer, cigar counter, magazines, and so forth.

Q. Do you know what magazines he handles? Your report says "Pictorial Review"; is that correct?

A. Correct.

Q. And the "American," and he also handles the "Buffalo Inquirer" and "Courier" and the "New York Journal"?

A. That is right.

Q. Do you know when Friel took on the "Pictorial Review"?

A. I think sometime within the last year.

Q. Do you know whether "Every Week" has a representative there?

A. I was not able to locate one.

Q. Who publishes the "American"?

A. The "American" is really their group. Friel

handles, no doubt, "Every Week," if he handles the "American."

Q. The "American" is one of the Crowell publications?

A. That is right.

Q. Do you know how long he has been handling that?

A. I think that is recently.

Q. Before Friel began to handle the "Pictorial Review" and the "American," your representative was the only magazine wholesaler in that town; is that correct?

A. Yes, sir; Mr. Friel has wanted our agency for some time.

Q. You would never have given it to him as long as he had the "Pictorial"?

A. Not as long as we have Cannon; never made a change, but we have had his application on file for some time.

Q. Did you mention Jamestown?

A. We talked about Jamestown; yes, sir.

Q. Is that one of the seven?

A. Yes, sir.

Q. Now, in Jamestown, Mason is your agent?

A. Yes, sir.

Q. And he handles the "Buffalo Courier," the "News" and "Express," also the Hearst group, "Collier's," "Literary Digest," your report says. Do you know when he put on the "Literary Digest"?

A. At the same time all of the rest of them did.

Q. Do you know when he put on "Collier's"?

A. I think he has had that for several years.

Q. Do you know whether or not he handles the "Pictorial Review"?

A. I don't know positively. I understand that he has made some kind of an arrangement with them and

sent in a check, and then his conscience bothered him and he decided to cancel it. That is all I know about it.

Q. On account of the contract?

A. Yes.

Q. Do you know about when that happened?

A. No; I don't know the dates on that.

Q. Well, about when—about the time that this independent movement occurred?

A. About that time; yes.

Q. Now, then, it shows that Jacobson put on the "Pictorial Review"?

A. Yes, sir.

Q. Who is Jacobson?

A. One of the leading news dealers. He has three stores there.

Q. He also handles the Warner group, "Every Week" and the "Women's Home Companion"?

A. That is right.

Q. Now, is Jacobson a retailer?

A. Retailer and wholesaler.

Q. What was he prior to the taking on of "Pictorial Review"?

A. Retailer.

Q. He did not engage in the wholesale business there at all, did he?

A. Not so far as I know.

Q. Then, prior to that time, your agent was the principal one in that town, was he not?

A. There was a man there by the name of Bentley, who just about a week prior to this investigation sold out the balance of his wholesale business to Mason, so that that let Bentley out.

Q. What was he?

A. A wholesaler of newspapers.

Q. Did he handle the "Pictorial Review"?

A. I don't think so.

Q. Was he your agent?

A. No, sir.

Q. Didn't handle any magazines at all?

A. I don't think so.

Q. And he sold out his newspaper business to Mr. Mason; is that correct?

A. Yes, sir; that is his wholesale end of it.

Q. Mason, then, was the only man there until——

A. Jacobson went in the field.

Q. Now, in Olean your agent is Mr. Oakleaf?

A. Yes, sir.

Q. And he handles the "Buffalo Express," the "Buffalo Courier," the "Buffalo News," the Hearst group, the "Pictorial Review," the "American" and the "Women's Home Companion" and your publications; is that correct?

A. Yes, sir.

Q. Now, is your agent, Mr. Oakleaf, still handling the "Pictorial Review"?

A. So far as I know; yes, sir, he is.

Q. You are going to change him, though, are you not?

A. Yes, sir.

Q. Now, he is the only wholesaler there, is he not, of magazines?

A. Of magazines; there is a new one. This man Van Jordan handles "Every Week."

Q. With the exception of Van Jordan, who handles this one magazine, Mr. Oakleaf is the only magazine wholesaler? He is the chief one there, is he not?

A. Yes, sir; he won't be.

Q. Was he the only one at the time that "Every Week" took on Van Jordan, do you know?

A. He must have been.

Q. He was the only one when the "Pictorial Review" went on this independent movement?

A. That is right.

Q. Have you been around there in order to change him?

A. No, sir.

Q. You haven't seen him yet?

A. No.

Q. Didn't you call on him when you made this report?

A. I called on him then, but I thought you referred to the changing of the contract.

Q. Is he under a new contract?

A. No, sir.

Q. Have you talked to him about the new contracts?

A. No, sir.

Q. Then all that you talked to him about was the matter of this investigation; is that correct?

A. That is right.

Q. How many times have you seen him in the last several months?

A. Why, I don't think I have seen him but once in the last three months.

Q. Did you see him six months ago?

A. I don't recollect. I get in there about three or four times a year.

Q. How many times have you seen him since he was handling the "Pictorial Review"?

A. Twice.

Q. You never said anything to him, either time, did you?

A. He tried to discuss it with me.

Q. That is what I am asking you about.

A. Nothing said about it at all.

Q. What did he try to discuss?

A. He tried to discuss it, but I hadn't anything to say.

Q. What did he say about it?

A. He said he was handling "Pictorial" and did not care who knew it. I said "It is all right."

Q. Why did not you change him right away?

A. We hadn't any contract at that time to put out. I had no instructions to change him.

Q. Was it for the reason that there was nobody else there that handled magazines?

A. No, sir.

Q. That was not the reason?

A. No, sir.

Q. Was it because you did not have a new contract and you were not ready?

A. That is the idea.

Q. Under this new contract, in arranging about the size of the cash deposit, you do that, don't you, to some extent, in putting in an agent?

A. Yes, sir.

Q. That is always commensurate with the quantity of magazines handled by the agent; isn't that correct?

A. If possible, yes.

Q. You figure up the number of magazines they handle and then match it with the cash deposit; is that correct?

A. That is right.

Q. And that was the way under the old contract, was it not?

A. I don't really know how they arrived at that, because the old contract was started before I came with the company. I presume so.

Q. Now, in your district—in all your towns—I want to ask you this question: Do they all operate the same way under the contract, in so far as remittances are concerned?

A. You mean under this new form of contract?

Q. Yes.

A. We have just recently placed those.

Q. You don't know how it is operating?

A. I don't know how it is operating. I understand they are all remitting, each week, as they are supposed to do.

Q. And they are entitled to return all magazines not sold?

A. Yes, sir.

Q. Under the old contract that was different, was it not?

A. Only 15 per cent. in that case, of the "Posts," 10 per cent. on the "Journal." "The Country Gentleman" for some time has been fully returnable.

Q. Is that all of the towns?

A. Those are the seven towns, yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Wehner, just a moment. During the years you have been doing this kind of business, you have placed contracts with agents frequently, have you not?

A. Yes; I have not had occasion to change very many, but I have changed some.

Q. And you never had any difficulty in getting a new agent in a town?

A. No.

Q. Have you ever made any arrangement whereby you paid any bonuses for signing a contract or anything else?

A. No, sir.

Q. All the arrangements you put in force were regular agency arrangements?

A. Yes, sir.

Q. Among these new agents whom you appointed, have you appointed any newspaper wholesalers?

A. No, sir.

Q. Is not a newspaper wholesaler just as good a distributing force as a magazine wholesaler?

A. Yes, sir; if he is the right type of man; he makes a good distributor; if he can handle our boys.

Q. I am just talking about the actual distribution?

A. Yes, sir; he is all right.

Q. Have you done any boy work around in your district?

A. Yes; lots of it.

Q. What do you do?

A. We hold these meetings for boys, either at the Y. M. C. A. or the district agent's offices. Down in Rochester, for instance, we had a number of meetings where we organized a salesmanship class, where the boys met each week, and we had arrangements with the superintendent of schools, who sent down a principal who conducted the school. At Auburn, we had a class of boys who met in the Y. M. C. A.

Q. Who is Mr. C. C. Robinson?

A. He is connected with the International Boys Work. I forget his exact title, but he is secretary, I think.

Q. He is connected with the Y. M. C. A.?

A. Yes, sir; his headquarters are in New York City.

Q. They interested him in your work?

A. Yes, sir; Mr. Robinson came to Rochester on two occasions.

Q. Do you know Mr. Lazareth, the Rochester agent?

A. Very well.

Q. Is he active in this boy business?

A. Yes, sir; he is very much interested in his boys; he has done a lot of good for his boys.

Q. What type of man is he—a good type?

A. Most everybody connected with business in Rochester knows him.

Q. He is quite a character, is he not?

A. Yes, sir.

Q. At Olean, you said this agent tried to talk with you about handling "Pictorial"?

A. That is right.

Q. And that you avoided the subject, in other words. Is that the impression you intended to give?

A. Yes, sir.

Q. And when you did that you were acting on instructions from the home office not to take up the contract situation at that period?

A. Yes, sir.

Q. Have you made any effort at all in Olean to find an agent?

A. No, sir.

Q. Or any other place?

A. I have changed two.

Q. And you were successful when you went there in changing them?

A. Yes, sir.

Q. You have not been anywhere else?

A. I started at Median, but I was called here.

Q. You intend to do that as soon as you get back to your territory?

A. Yes, sir.

Q. You testified Mr. Shoudy dropped all the other publications?

A. Yes, sir.

Q. Why did he do that?

A. From what he told me he had been having sickness in his family, and he has had several boys in the store, and they have been changing frequently, and he got tired and disgusted with breaking in new help, and he told me he figured up the whole business and figured that he was doing it for fun, and decided to cut it all out.

Q. You did not exert any influence over him?

A. No, sir; I did not know anything about it until he wrote me and told me what he had done.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. When was it you were instructed not to change contracts? That has been spoken about once or twice in the record.

A. We were not instructed not to change contracts, but we were told to say nothing about the "Pictorial," that we knew nothing about it.

Q. When were you instructed—you referred in your testimony to a time when you were instructed from the office not to touch the contract matter.

A. We were simply instructed if an agent told us he had the "Pictorial" or knew an agent who handled "Pictorial," to say nothing about it. That is all the instructions were.

Q. Those were the instructions you had?

A. Yes.

Q. When was that?

A. Within the past year and a half.

Q. About when?

A. I cannot tell you.

Q. About six months ago?

A. I guess it was longer than that.

Q. Twelve months ago?

A. I could not tell you.

Q. Around about the time of this independent movement?

A. I should say the latter part of last fall.

Q. You were instructed to tell these agents in unmistakable terms that they must not handle "Pictorial Review," were you not?

A. No, sir.

Q. You never got those instructions?

A. I was told to say nothing at all.

Q. How many newspaper dealers have you ever made your agents since you have been in business?

A. I do not remember any.

Q. Never made any, have you?

A. No, sir.

Q. There is a reason for that, is there not?

A. Why, all the towns where I have made the changes they have been principally small towns, and I have always found—always preferred the boys.

Q. As a matter of fact, the retailers prefer to deal through the wholesalers, do they not, instead of going to the newspaper agencies? It is more convenient for them?

A. As a rule, yes, sir.

Q. They would only have to deal with this one man and not have to open several accounts?

A. I have heard objections to that. I have found news dealers buy from the News Company for the simple reason they will not deal with two or three people. You will not find that very often, however.

By Mr. Milburn:

Q. These retailers buy their newspapers from newspaper wholesalers?

A. Yes, sir.

Q. It would be just as convenient for them to buy their magazines from the same source?

A. Yes, sir.

Q. You stated that the reason you did not appoint newspaper dealers is because you prefer the boys?

A. Yes, sir; in the small towns.

Q. How many of your agents are boys?

A. Nine are boys out of the twenty-four.

Q. How many handle nothing but Curtis publications?

A. They handle nothing but Curtis publications.

Q. Did they ever handle anything in a wholesale way except the Curtis magazines?

A. No, sir.

Mr. Milburn: That is all.

W. WORTHINGTON, JR., was called as a witness on behalf of the respondents, and, being duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Worthington, for whom do you work?

A. The Curtis Publishing Company.

Q. In what capacity?

A. Superintendent of agencies.

Q. And what is your district?

A. Part of Pennsylvania, South New Jersey, and one town in Delaware.

Q. What are your largest cities?

A. Atlantic City, Wilmington, Chester, York, Lancaster, Reading, Pottsville, Scranton and Wilkes-Barre are my largest towns.

Q. How many towns do you cover?

A. Thirty-three.

Q. Is there a separate agent in each town?

A. Yes, sir.

Q. How long have you been in this district?

A. I have been in this district going onto three years.

Q. Are you pretty familiar with it?

A. Yes, sir.

Q. Have you been in all the towns?

A. Yes, sir; every town.

Q. About how often do you get around to these towns?

A. It depends on the size of the towns; I visit each town three times a year; some of the larger towns oftener and stay there longer.

Q. Are any of your agents boys?

A. I have five boys.

Q. From what walks of life are the other agents drawn?

A. I have five boys; nine news dealers; two drug-

gists, and nineteen agents who conduct general stores; that is, stationery, cigars, etc.

Q. When you say news dealers, you mean wholesale news dealers?

A. Yes, sir; wholesale news dealers.

Q. In how many of the thirty-three towns did the agent take on the Curtis publications as his first magazines?

A. Twenty-four.

Q. And in how many of the thirty-three towns have the agents handled Curtis magazines and Curtis magazines only?

A. Twenty-two, where the Curtis agent handles only Curtis magazines.

Q. In how many of your towns is there only one wholesaler?

A. Fourteen.

Q. And in those cases is that wholesaler a Curtis agent?

A. Yes.

Q. Of the fourteen how many of them wholesale only Curtis publications?

A. Well, only one agent——

Q. I just asked that roughly.

A. Roughly I would say—what is your question again?

Q. Of the fourteen, where there is only one wholesaler, I want to know in how many instances do those men handle only the Curtis magazines?

A. In those small towns, ours is the only wholesaler in the town.

Q. Did you make an investigation to get these figures for the Curtis Publishing Company?

A. Yes, sir; I did.

Q. And submitted them in a written report, town by town?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, will you name the towns, Mr. Worthington, where the wholesaler handles your magazines and other magazines?

A. Handles our magazines and others?

Q. Yes.

A. Scranton, Pottstown, Wilkes-Barre—you are speaking of our agents now?

Q. Yes.

A. Hazleton, York, Wilmington and Atlantic City.

Q. Some of these same men handle newspapers as well; do they not?

A. Yes, sir.

Q. Those are all the towns in your territory that handle other magazines and the Curtis magazines, is that correct?

A. That is to the best of my knowledge; yes, sir.

Q. Now, then, you stated that in the small towns—in a number of the small towns—there was no agent except yours?

A. Yes, sir; I am speaking now of magazine agents.

Q. Yes; magazine agents.

MR. WELCH: What do you call a small town—what population?

THE WITNESS: Oh, a town of five to ten thousand.

By MR. DALY:

Q. Take Pittston, for instance; your report shows that Mr. H. Robinson is your agent there, and he handles all the Philadelphia and New York morning and evening papers, the Curtis group, the Hearst group, "Literary Digest" and "Collier's," and it does not appear on your report that there is any other dealer there.

A. Yes, sir.

Q. He is under contract with you, is he not?

A. Yes, sir.

Q. And have you, in his case, put in a new contract with him?

A. Yes, sir.

Q. Do you know how long he has been handling "Literary Digest"?

A. I do not.

Q. Not for any great length of time, is it?

A. I do not imagine so.

Q. All over your territory, wherever your agent has been handling "Literary Digest," that has been put in within a few months back?

A. I think so; they sent out a letter possibly six months ago to the various agents throughout the territory.

Q. Now, then, of course, it goes without saying that Mr. Roberts is the only and chief wholesaler there?

A. He is the chief wholesaler by reason of the fact that he is handling Curtis publications. I could make any other man the chief wholesaler there.

Q. You said in your question some time ago that you based your idea of the chief wholesaler on the circulation.

A. I was talking to that particular witness then.

Q. He is the principal wholesaler?

A. Yes, sir; in this case.

Q. Do you know whether or not Mr. Roberts was asked to take on the "Pictorial Review"?

A. I never heard that he had been.

Q. You know nothing about that?

A. No, sir.

Q. Now at Atlantic City you have Majane, and he sells Philadelphia and New York papers?

A. Yes, sir.

Q. The Curtis group and the "Literary Digest" group?

A. Yes, sir.

Q. Do you know whether or not he was asked to take on the "Pictorial Review"?

A. I do not. Mr. Majane did not tell me he had been. I did not discuss it with him. That territory—Atlantic City—has just been handed to me within possibly the last three or four months, and I am not sufficiently acquainted with Mr. Majane, possibly, for him to discuss that with me. He did not tell me he had been approached.

Q. Is he under the new contract?

A. Yes, sir.

Q. When did you put him under that?

A. Within the past thirty or forty days.

Q. I suppose in that case, in fixing the cash deposit bond described in this case, that they would be given in accordance with the number of magazines the agent is handling?

A. Yes, sir; based on circulation.

Q. Is that correct?

A. Yes, sir.

Q. How many agents have you put under these new contracts in your territory?

A. All but one.

Q. How recently is that?

A. Within the past two weeks.

Q. Where is that?

A. Merchantville, New Jersey.

Q. Why did you not put him under it?

A. I have not had time to go over that.

Q. You are going to go over that?

A. Yes, sir.

Q. Does he handle the "Pictorial Review"?

A. No, sir; this only happens to be a boy who handles our paper.

Q. Your policy in your district toward the "Pictorial Review" is the same as has been testified to by the gentleman that preceded you?

A. Yes, sir.

Q. That if any of your agents or men handled that, you changed them?

A. Yes, sir.

Q. And you did not give any permission to handle "Pictorial Review"?

A. I have no right to give any such permission.

Q. Your company does not either?

A. Not to my knowledge.

Q. That is true also, as far as "Every Week" is concerned, too, is it not?

A. Those are my instructions.

Q. Now, then, Mr. Lippincott handles the "Pictorial Review" and Crowell group?

A. Yes, sir, whatever is in the report.

Q. That is the only man handling magazines in Atlantic City, except through the News Company?

A. The News Company have a branch there.

Q. Now, do you know when Lippincott took on the "Pictorial Review" and the Crowell group?

A. I do not.

Q. It has not been long, has it?

A. I do not know.

Q. What was his business before that?

A. I do not know. I think Mr. Lippincott was connected—Atlantic City is a town I am not altogether familiar with.

Q. He was a retailer, was he not?

A. No, sir; I think Mr. Lippincott is connected with one of the newspapers.

Q. The "Atlantic City Review"?

A. He is circulation manager of the "Atlantic City Review," I think.

Q. Did he not handle magazines then?

A. No, sir.

Q. He is the only magazine man outside of Mr. Majane who handles magazines, outside of the newspaper distributors?

A. Yes, sir.

Q. In Wilmington, Delaware, you have Mr. Wilson, and he sells the "New York American" and Philadelphia papers, the Curtis group and "Collier's" and Hearst's?

A. Yes, sir.

Q. How long has he been your agent—a good while, has he not?

A. Yes, sir.

Q. What does he do there?

A. He wholesales magazines, a wholesale magazine and news dealer—wholesales magazines and newspapers.

Q. Does he sell anything else?

A. No, sir.

Q. In the way of tobacco, etc.?

A. No, sir; wholesale business entirely.

Q. Do you know whether or not Mr. Wilson was asked to take on the "Pictorial Review"?

A. Mr. Wilson was asked to take on the "Pictorial Review," yes, sir, and to handle it.

Q. And what happened?

A. He threw it out because he could not sell enough of them to make it of interest to him.

Q. That was the reason he let go of it?

A. I never approached Mr. Wilson on the "Pictorial Review." The "Pictorial Review" was not the only magazine he tossed out on that account. He is handling on those that pay.

Q. It did not pay to handle the "Pictorial Review"?

A. He did not think so.

Q. I notice Mr. J. L. Banks handles "Every Week" there. That is a recent arrangement, is it not?

A. Yes, sir; possibly.

Q. What does Banks do?

A. He is circulation manager of one of the papers.

Q. Which one?

A. "Every Evening," I think.

Q. Now, the Leonard Brothers sell papers, do they not?

A. Yes, sir.

Q. And not magazines—is not that correct—according to your report, here it is?

A. Very well.

Q. As a matter of fact, Mr. Wilson was the only wholesaler of magazines in that city until recently—is that correct?

A. He is the only wholesaler there now; yes, sir.

Q. And was under the old contract?

A. No, sir; we had another agent there. We changed a couple of years ago. I had no trouble in securing another agent, and later on I gave it back to Mr. Wilson.

Q. When the "Pictorial" broke away, he was the only one?

A. Yes, sir.

Q. Now, take Pottsville. Pottsville is one of the towns, is it not?

A. Yes, sir.

Q. I am confining my inquiries now to the towns where there are magazine dealers——

A. There are magazine dealers in Pottsville.

Q. Take Hazleton. Your report shows Mr. Weber is agent. He sells Philadelphia papers, your magazines, "Literary Digest" and the Warner group?

A. Yes, sir.

Q. He is the only wholesaler in that town, is he not?

A. Yes, sir.

Q. Who handles "Pictorial Review," if anybody does?

A. I think there are only one or two retailers there, but they buy direct from the news company.

Q. It is a small town?

A. Well, it is not a small town—it is a town of 25,000, but its population is about 90 per cent foreign. It is small in literate population.

Q. Now, as to Scranton, you have the Anthracite News Company, which sells the Philadelphia and New York morning and evening papers, the Hearst group, the Curtis group, "Literary Digest" and "Collier's." Now, besides that in that town there is the American News Company, your report shows?

A. They have a branch there.

Q. Then, there is a man by the name of Henry Tucker who handles the "Pictorial Review"?

A. Yes, sir.

Q. What does he do?

A. He is a jewelry salesman, I believe.

Q. Then the Anthracite News Company is the concern that is properly equipped to handle magazines in a wholesale way?

A. Yes, sir.

Q. And they are the only ones that are there?

A. Yes, sir.

Q. At the time that this independent distribution began of the "Pictorial Review," the Anthracite News Company was the only concern there?

A. No; the American News Company had a branch.

Q. Leaving out the American News Company?

A. Yes, sir.

Q. Now, in Wilkes-Barre, Mr. Kessler is your man?

A. Yes, sir.

Q. And he handles the Philadelphia and New York papers, morning and evening, the Curtis group, the Hearst group, the "Literary Digest" and "Collier's"?

A. Yes, sir.

Q. And your report shows that Peter Goldman handles "Every Week." Who is he?

A. Goldman is the circulation manager of one of the Wilkes-Barre papers.

Q. Do you know when he took it on?

A. I do not.

Q. It must have been recently?

A. Yes, sir; it was pretty hard to keep track of the situation up there.

Q. He is not a wholesaler of magazines?

A. No, sir.

Q. John P. Guerro handles "Pictorial Review." He is a wholesaler, is he?

A. He handles "Pictorial Review."

Q. Outside of the "Pictorial Review" he handles no magazines?

A. No; he has a retail store there.

Q. He sells magazines in a retail way?

A. Yes, sir.

Q. Then Kessler, at the time this independent distribution began, or the attempt to make an independent distribution was made, was the only large wholesaler in that city?

A. He was the only wholesaler.

Q. The only wholesaler in that city?

A. Yes, sir.

Q. How large a city is Wilkes-Barre?

A. Seventy-five or eighty thousand.

Q. Now, in York, Pennsylvania, Smyser Brothers are your agents—is that correct?

A. Yes, sir.

Q. And they handle all the Philadelphia papers?

A. Yes, sir.

Q. The Curtis group, the Hearst group and "Collier's"?

A. Yes, sir.

Q. Do you know whether or not Smyser got permission to handle the "Pictorial Review"?

A. He is not handling "Pictorial Review."

Q. Well, I am asking if he did not get permission at one time?

A. No, sir; we had some agents who had been solicited by the "Pictorial Review" people to handle their account.

Q. Was he one of them?

A. He was one of them. Smyser was one of those that were approached by the "Pictorial" people.

Q. Why didn't he take it on?

A. Because he was refused permission by the Curtis Publishing Company.

Q. Do you know how the "Pictorial Review," after that, distributed their magazines?

A. Through the York News Company.

Q. That is not the American News Company?

A. No, sir; that is run by a man named Isler.

Q. So, at the time the "Pictorial Review" was asking for permission to sell its papers through Smyser, he was the only wholesaler of magazines in that city—is not that right?

A. No; the York News Company were in the business before Smyser. They, from time to time, have handled various magazines, and they have been changed and given over to Smyser or someone else due to their inability to give the proper kind of attention.

Q. They were not an efficient means of distributing papers?

A. They had just as efficient means as Smyser; it was a lack of ability, I should say.

Q. They just could not do it?

A. Or they would not do it.

Q. Then Smyser, in reality, was the only capable man there—the only man who could do it?

A. I would not say he was the only capable man there. That is pretty tough on a town to say there is only one man who can do it.

Q. I am thinking of those men of whom we have talked—Smyser was the only one?

A. He seemed to be the only man who was doing the business on a business basis, and would give the publishers results. The other fellow had the same facilities as Smyser. Smyser makes deliveries by boys.

Q. The other fellow did not make use of them?

A. No, sir.

Q. Was there any other agent in this district similar to those we have been describing here—those that handled other magazines along with yours?

A. Yes, sir.

Q. That is what I asked you?

A. I think I gave you the majority of them.

Q. I would like for all of the towns where they handle your magazines and other magazines.

A. Have you a memorandum there of the towns I have given you?

Q. Well, you gave me Scranton, Pittston, Wilkes-Barre, Hazleton, York, Wilmington and Atlantic City.

A. You are asking not where our magazines are handled by wholesalers, but where they are handling our magazines and other magazines?

Q. Yes.

A. Well, there is Bethlehem, Allentown, Reading——

Q. Well, if they were handling it some time back, put it in.

A. Atlantic City they did.

Q. Yes?

A. Then Easton. I think that is all. The rest of them are small towns. That was at wholesale, irrespective of whether there was one or more other wholesalers in the town.

Q. Yes. Do you know the population of Pittston?

A. Pittston, 19,000 and about 90 per cent. foreigners.

Q. Wilkes-Barre?

A. Seventy-five thousand.

Q. Wilmington?

A. One hundred thousand.

Q. Atlantic City?

A. What time of the year do you mean?

Q. Most any time. The usual population is somewhere around 100,000?

A. Well, they give it here as 50,000.

Q. Scranton?

A. Scranton, about 140,000.

Q. Take Allentown, for instance, the Allentown News Company is your agent?

A. Yes, sir.

Q. And they handle all the Philadelphia morning papers, the "New York American," the Curtis group, Hearst group, "Collier's" and "Literary Digest." Now, Lloyd Kohl handles the "Pictorial Review" and the Crowell group. When did he take on the Crowell group, if you know?

A. I believe after the Allentown News Agency gave it up.

Q. When was that?

A. Possibly sixty or ninety days ago.

Q. When did Kohl take on the "Pictorial Review"?

A. Possibly about the same time.

Q. What does Kohl do?

A. Kohl is a wholesale news agency and magazine and newspapers.

Q. What magazines does he handle besides these two, if any?

A. Some of the small group. I have never taken particular pains to find out.

Q. You did not put the small group on this report then; is that correct?

A. Well, Kohl is a new man in the business—possibly been in there about three years, and first started in, taking over what newspapers he could get; later as many magazines as he could get hold of.

Q. Now, the Allentown News Company gave up the "Every Week," did it not?

A. Yes, sir.

Q. Why?

A. The "Every Week," you speak of?

Q. Yes.

A. I do not know if they had the "Every Week."

Q. Well, the Crowell group?

A. Not any of the Crowell group to my knowledge.

Q. Well, did they give up the "Pictorial Review"?

A. They did.

Q. Why was that?

A. Because I told them to.

Q. You called their attention to the contract, did you?

A. Yes, sir.

Q. Said they could not handle it, and they quit; is that correct?

A. Yes, sir.

Q. And that was about when?

A. Possibly three or four months ago.

Q. Then, the Allentown News Company is actually the only wholesaler there, or was the only wholesaler there at that time; is that right?

A. No; Kohl is a wholesaler.

Q. Wholesaler of magazines?

A. Yes, sir.

Q. I ask you again if the Allentown News Company, at the time that the Crowell group or the "Pictorial Review" left and went to Kohl, whether or not the Allentown News Company——

A. Admitting those two groups, the Allentown News was the only wholesaler in town.

MR. MILBURN: He said that Kohl was a wholesaler.

By MR. DALY:

Q. Magazine wholesaler I am talking about. Straighten that out. What did Kohl handle?

A. Kohl handled—you mean magazines now?

Q. What magazines?

A. Kohl handled the "Every Week" group, and now had taken on the "Pictorial Review."

Q. Now, then, your testimony seems to lead Mr. Milburn to think that he had other magazines.

A. Previous to this investigation I was under the impression that Kohl was handling two or three of the smaller magazines.

Q. Do you know what they are?

A. I do not.

Q. Well, they were not leading magazines?

A. They were not leading magazines.

Q. So then, the Allentown News Company in reality was the leading wholesaler there; is that correct, at that time, at the time that the "Pictorial Review" left?

A. Yes; but they had the same delivery services, as efficient a service.

Q. They are under the new contract, are they not?

A. Yes, sir.

Q. Take Bethlehem, Pa. I notice that Samuel Wilson is the agent that handles the Crowell group.

A. Yes, sir.

Q. What does he do?

A. Samuel Wilson is a wholesale newsdealer?

Q. What does he wholesale?

A. Why, "New York Journal."

Q. Well, your report shows that he——

A. Whatever is there on the report.

Q. He handles the "New York Journal," the "American," the "Philadelphia North American" and the Crowell group?

A. Yes.

Q. He handles no other magazines?

A. Not to my knowledge.

Q. And prior to the taking on of the Crowell group, he did not handle any magazine, did he?

A. No.

Q. Then who is your agent?

A. R. B. Weand.

Q. He handles the Curtis, "Hearst's," "Literary Digest" and the "Collier's." Did he handle the "Pictorial Review," do you know?

A. He did.

Q. What happened about it?

A. When did he handle it?

Q. Yes.

A. A year ago.

Q. When?

A. A year ago.

Q. Why did he stop?

A. Because it was in violation of his contract and there was not sufficient wholesale business in his section to handle it.

Q. Your company objected to it, didn't they?

A. We objected to—the company did, rather.

Q. And the "Pictorial Review" went over to John L. Langan?

A. Yes, sir.

Q. What does he do?

A. Langan has been a wholesale newsdealer and magazine dealer for years—possibly ten years.

Q. It says he handles the Warner group and "Motion Picture"?

A. Yes.

Q. Did he handle them in a wholesale way?

A. Yes, sir; has handled them in a wholesale way. He was formerly our agent.

Q. Why did you change from him to the other?

A. Because we were not getting the circulation.

Q. He did not give you the service?

A. No, sir.

Q. So then, Mr. Weand is in reality the best man there, is he not?

A. No; if he is, he is through our efforts. He is an entirely new man. Langan is an older man in the business than Weand.

Q. How long is Weand in the business?

A. Weand has been with us two or three years. Langan has been in the magazine business for ten years.

Q. He is not a satisfactory man, you stated?

A. Not to us.

Q. Is Weand—when the "Pictorial Review" went over to Langan, was Weand the largest wholesaler of magazines there?

A. If you take it from a Curtis point of view, yes, but not for the other magazines. Mr. Weand does wholesaling in the town.

Q. He handles the Hearst group, "Literary Digest" and "Collier's," besides your magazines?

A. Yes, sir.

Q. And Mr. Langan only handled the Warner

group and "Motion Pictures"? Motion Pictures has not a very large circulation, has it?

A. No.

Q. So then, the circulation of the Hearst group and the "Literary Digest" and "Collier's" would certainly be much larger than that of Langan?

A. Yes, but I want to draw your attention to the fact that Mr. Weand is handling our publications and the Hearst group, not the fact that he is the only wholesaler in the town, because the other man———

Q. I did not ask about wholesaler?

A. You said he was the leading wholesaler.

Q. He is the leading wholesaler, I said.

A. He is, through his own ability, not——

Q. I don't care through what source. I asked you if he was. Now, then, in Easton, Pa., who is your man there?

A. Ballentine.

Q. And he sells the "Ledger," the "North American," "New York American," the Hearst group, your magazines and "Collier's"?

A. Yes.

Q. Now, I notice that John Joseph Redd handles the Crowell group and the "Pictorial Review." Do you know when he took on these two magazines?

A. I think possibly in the last sixty days.

Q. What is his business?

A. He is a newsdealer, retail.

Q. He was a retailer, was he not?

A. Yes.

Q. Now, when you left Ballentine—the Ballentine agency, the only wholesaler there was that firm, was it not?

A. Yes, sir.

Q. They were both with Ballentine, were they? Do you know whether the Crowell group and the "Pictorial Review" had been handled——

A. I don't think Ballentine ever handled the Crowell group.

Q. He handled "Pictorial Review"?

A. Yes, sir.

Q. Why did they drop it, because you objected, was it not?

A. Because we objected, in violation of his contract.

Q. Your testimony shows that you have only given us ten of these towns, whereas you have shown there are eleven of them. Do you know which one the other town was?

A. You say eleven?

MR. WELCH: I have got eleven.

By MR. DALY:

Q. Did you count Reading as one?

MR. WELCH: Yes.

MR. DALY: That does not come in this class.

MR. WELCH: That is what I said at the time. Reading is a town that has two magazine wholesalers.

MR. DALY: Yes.

By MR. DALY:

Q. Is there another town of the class that we have been talking about here, besides Reading?

A. No.

Q. Then there are only ten of these towns, instead of eleven; is that correct?

A. Yes.

Q. What is the population of Bethlehem?

A. Bethlehem is since the merger, we would say, about fifty or sixty thousand, I guess.

Q. Allentown?

A. The same.

Q. Easton?

A. About twenty or twenty-five thousand.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where is Mr. Robin agent?

A. Town called Pittston.

Q. Do you know whether he handled Curtis, the first magazine he handled?

A. Well, the situation there is rather peculiar. Pittston was formerly under contract with Wilkes-Barre. Mr. Robin bought the newspaper business at Wilkes-Barre or from the Wilkes-Barre agent at Pittston, and of course, took over both the magazine and newspaper end with it, so he really bought what business there was in the town. I would not say he first started in business with us, no.

Q. How big a place is Pittston?

A. Pittston's population is 19,000; another one of those mining towns, ninety per cent. foreign. There are not over three dealers in the town. They have all been created by our agents there, not new stores—one fruit store and places of that kind.

Q. You have had to appoint new agents in your time, in charge of this district, have you not?

A. I have.

Q. Have you ever had any difficulty in doing it?

A. No, sir.

Q. Ever had to pay any bonus or anything like that?

A. All of my towns are under regular contract. Recently changed the contract in a town of ten or eleven thousand, in three or four hours.

Q. Where was that?

A. Columbia, Pennsylvania.

Q. What was the new agent?

A. The new agent is a druggist.

Q. Did he go under a straight contract?

A. Under a straight contract.

Q. Who is the agent at Easton?

A. Joseph Ballentine.

Q. Do you know what magazines he began with?

A. Ballentine, I do not. I don't think—he wasn't one of the first. I would refer you back to my report there on that. The old firm of Ballentine & Sigfried.

Q. There are newspaper wholesalers in Easton?

A. Yes; there are two or three newspaper wholesalers there.

Q. Paul Youman?

A. Paul P. Youman is one.

Q. Who is B. F. Beatty?

A. He is another wholesale news dealer?

Q. What was Reeder?

A. Retail news dealer.

Q. Before he took on Crowell and "Pictorial"?

A. Yes, sir.

Q. Do you know whether he has got any other magazines?

A. I do not.

Q. In Allentown, Pennsylvania, how many newspaper wholesalers are there, do you know?

A. Two.

Q. (Handing witness.) Is that your report that I show you?

A. Yes.

Q. How many newspaper wholesalers are there?

A. Three.

Q. Who are they?

A. Allentown News Company, Lloyd Kohl and Clark Runkle.

Q. I show you a paper and ask you if that is your report for Bethlehem?

A. Yes, sir.

Q. How many newspaper wholesalers are there in Bethlehem?

A. Four.

Q. How many magazine wholesalers?

A. Three.

Q. Weand, what did he do? Did you put him in business, or was he in it before?

A. No, Weand was changed by my predecessor.

Q. Do you know what his business was before he was changed?

A. Stationery.

Q. He was not a magazine wholesaler when he had the contract with Curtis, was he?

A. Retail dealer.

Q. How long has he been agent?

A. About three years.

Q. The other newspaper wholesaler there had been established for some time, had he—ten years, I believe you said?

A. Yes, sir.

Q. In Scranton, what wholesalers of magazines are there?

A. In Scranton we have three, one on the "Pictorial Review," our agent, and a Scranton news agency.

Q. What is your agent there?

A. The Anthracite News, M. L. Goodman.

Q. Do you know what the Scranton News Agency handles?

A. They handle all of the magazines outside of the independent ones. That is a branch of the American News.

Q. Wilmington, how many magazine wholesalers are there?

A. Two.

Q. Who is our district agent?

A. W. C. Wilson.

Q. Then there is the Wilmington News Company, is there not?

A. Yes, sir.

Q. Is that a branch of the American News Company?

A. Yes, sir.

Q. "Every Week" has an agent there, Mr. Bangs?

A. Yes.

Q. Who are the Leonard Brothers?

A. Leonard Brothers are wholesale news dealers.

Q. They handle what papers?

A. They handle all Philadelphia and New York papers.

Q. Vernon Brothers?

A. The same way.

Q. They are newspaper wholesalers in the business of distributing newspapers?

A. In the business of distributing newspapers.

Q. Have equipment to distribute the newspapers?

A. Have a delivery service there.

Q. Mr. Wilson also handles papers?

A. Yes.

Q. Do you know what business he was in, before he had his Curtis contract?

A. No, I do not: That is before my time. I think he has been in the news business ever since he has been in Wilmington.

Q. Where is this Mr. Kohl situated?

A. At Allentown?

Q. Yes.

A. He is on Hamilton Street—has a store there.

Q. Does he have delivery equipment?

A. Yes, sir.

Q. Same as the Allentown News Company?

A. Same as the Allentown News Company.

Q. What about Reading? How many wholesalers are there there?

A. Two.

Q. Who are they?

A. Our agent and Stanley Kaufman.

Q. What is our agent's name?

A. The Reading News Agency.

Q. Independent concern in Reading?

A. Independent concern in Reading.

Q. What do they handle?

A. They handle our magazine line now.

Q. Who is the other wholesaler?

A. Stanley Kaufman.

Q. What does he handle?

A. He handles all of the independent magazines.

Q. Mention some of them, will you?

A. "Hearst's," "Collier's," "Literary Digest," "Pictorial Review," "Every Week."

Q. Is he the principal wholesaler there?

A. He is the principal wholesaler in the town.

Q. What is the situation in York, Pennsylvania?

A. We have two wholesalers there.

Q. Who are they?

A. Smyser and what is known as the York News Agency—independent news agency.

Q. What did you say about the "Pictorial" trying to get Smyser to handle their paper, or did he handle it?

A. They first solicited our agent, Mr. Smyser, to handle the paper.

Q. Did the other wholesaler exist there at that time?

A. He existed at the time.

Q. Do you know how they wanted Smyser to handle it? Have you any knowledge of that?

A. Mr. Smyser was solicited by letter.

Q. Answer yes or no.

A. Yes; I do.

Q. What is it?

A. He was solicited by letter to take hold of the "Pictorial Review." He wrote to our company and he also wrote to the "Pictorial" people.

Q. That is not what I asked. I asked did you know in what manner he was asked to handle the "Pictorial"?

A. Yes.

Q. Was it through dealers, or boys, or what?

A. Through boys and dealers.

Q. What about Lebanon, Pennsylvania?

A. At Lebanon, Pennsylvania, there are two.

Q. Who is our agent?

A. Our agent is Mrs. or Miss Bowman.

Q. Does she handle anything besides Curtis?

A. Nothing but Curtis publications.

Q. Is there another wholesaler there?

A. Another wholesaler in the town.

Q. Who handles all independents?

A. Handle independent magazines, "Hearst's," "Collier's"——

Q. "Pictorial"?

A. "Pictorial."

Q. "Literary Digest"?

A. "Literary Digest" and the Hearst group.

Q. What size is Lebanon about?

A. About 20,000.

Q. What is the situation at Lancaster. Who is our agent?

A. Our agent is Isaac Steinfeldt.

Q. What does he handle?

A. He handles the Curtis group line and he is in the wholesale and retail news business, cigars and so forth.

Q. Is there another wholesaler?

A. Yes; a couple there.

Q. Who are they?

A. W. D. Madigan is one of them.

Q. What does he handle?

A. Crowell group, "Pictorial Review," "Collier's," and "Hearst's."

Q. Is he the principal wholesaler there?

A. He is the principal wholesaler.

Q. Who is W. J. Meekin?

A. He is a news dealer.

Q. Wholesale news dealer?

A. Wholesale news dealer.

Q. And are there several other wholesale news dealers there?

A. Yes.

Q. What is the size of Lancaster?

A. Fifty thousand.

Q. At Norristown, how many magazine wholesalers are there there?

A. Three.

Q. Who wholesales the Curtis group?

A. A man by the name of Yuber.

Q. Does he handle anything else?

A. No.

MR. DALY: This is new examination, not redirect.

MR. MILBURN: I just asked odd towns.

By MR. MILBURN:

Q. He just handles Curtis?

A. Yes, sir.

Q. Who handles the Hearst group?

A. A man by the name of Langan is the principal wholesaler in the town.

Q. There is no boy handling "Every Week"?

A. Yes.

MR. MILBURN: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. You spoke of how easy it is to get agents for your company. Of course, when you go you offer them a group of magazines, don't you? They all have established large circulation?

A. Yes.

Q. You could not as readily get agents for one magazine—a single magazine—as you could do for a group, like that, could you?

A. It all depends upon the requirements of the group, I would say.

Q. You offer an attractive proposition to agents?

A. We think it is an attractive proposition. Sometimes they don't always think so.

Q. You have three established magazines and you allow them some reasonable commission, don't you?

A. Yes.

Q. And they all have quite a large circulation—in fact, larger than practically any other magazine; is not that correct?

A. Yes.

Q. So, then, in a case like that, it would be a paying proposition in a great many instances, would it not, that you would offer?

A. Yes; certainly it would.

Q. Now, then, in addition to that you would not have to get permission of other publishers in any case would you—whether or not the solicited man would not have to get permission from any other publisher, in order to handle your magazines?

A. I don't know. I am not acquainted.

Q. In other words, they are not under contract as a rule, are they, with other publishers?

A. Not in the majority. I am not acquainted with the other publishers' contracts.

Q. You have not found in your territory that condition, have you?

A. No, sir.

MR. DALY: That is all.

(Witness excused.)

T. F. Cooke, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. For whom do you work?

A. Curtis Publishing Company.

Q. What position do you hold?

A. Superintendent of agencies in Eastern New York State.

Q. How many towns do you cover?

A. Forty-four.

Q. Now, all told, have you made this investigation of which we have spoken and made reports to Mr. Douglas?

A. Of thirty-five towns.

Q. Who handled your other towns?

A. Mr. Wehner had eight, and Mr. Baker one.

Q. So your reports as to figures does not apply——

A. Only to thirty-five towns.

Q. When did you first become associated with the Curtis Company?

A. About eight years ago.

Q. Whereabouts?

A. Pittsfield, Massachusetts.

Q. What were you doing there?

A. District agent.

Q. What had you been before that?

A. In the mathematics department of the Pittsfield High School.

Q. You became interested in this Curtis plan, did you?

A. Yes, sir.

Q. Became district agent. How long were you district agent there?

A. Until last—the first of last December, a little over seven years.

Q. You have only been on your territory, in your district, since the first of December, is that correct?

A. That is correct.

Q. Of your thirty-five towns on which you reported, in how many of them did you find there was but one wholesaler?

A. Five.

Q. In how many of the thirty-five towns and how many of them had the wholesaler started with the Curtis publications? If you don't understand that, let me know.

A. Repeat your question, please.

Q. In how many of the thirty-five towns did the agent handle the Curtis magazines, first of all?

A. Thirty-four.

Q. And in how many have your agents handled only Curtis?

A. Eighteen—only Curtis publications?

Q. Only Curtis publications.

A. Fifteen.

Q. That is, of your agents?

A. Yes, sir; of the thirty-five.

Q. And you reported the result of your investigation in writing?

A. Yes.

Q. And you have visited the towns, all of them, have you?

A. Yes; I visited all of them, but one, and there I obtained my information by telephone.

Q. What towns did you cover? Will you give me —indicate a few of them—the larger cities?

A. Albany, Troy, Glen Falls, Saratoga Springs, Schenectady, Amsterdam, Poughkeepsie.

MR. MILBURN: That is all, I think.

CROSS-EXAMINATION.

By MR. DALY:

Q. Name the towns where the Curtis agents sell other magazines?

A. Give the individual towns?

Q. Yes; all of them.

A. Well, I don't know whether I can, all of them offhand or not. Troy——

Q. Have you some note about that on your book that you could refer to?

A. I think I would have to go back to the original report to get that. Your question is those who handle other magazines besides the Curtis?

Q. Yes; if you can't then you had better get the reports for me, will you please.

A. There are very few who handle other publications.

Q. There must be at least fifteen.

A. Well, these questions I am answering of course would apply at the time when I made these investigations and not at the present time.

Q. Well, I am speaking about that time, now.

A. Then Albany would be included.

Q. Or if not then, six months or so back?

A. If that is the case, include Amsterdam. That was prior to the time of this investigation, though.

Q. That is all right. Include it.

A. White Plains.

By MR. MILBURN:

Q. Are you referring to your records now at the time of your investigation?

A. With one exception. He said prior to that. Amsterdam would be prior to that. At the time this investigation was made, Amsterdam would not be included.

By Mr. Daly:

Q. Well, it is a town where——

A. Let me understand you. Do you want this at the time of this investigation, or some previous time?

Q. Take that investigation first.

A. All right, then. Cross out Amsterdam. Utica, Troy I gave you, I believe; Port Chester, Poughkeepsie.

By Mr. Milburn:

Q. How about Binghamton?

A. Postland, Gloversville, Kingston—I think that is all.

By Mr. Daly:

Q. You have only been in this territory for what period?

A. Since the first of December.

Q. Of this last year?

A. Yes, sir; December, 1917.

Q. Are these all of the towns that you have here in your report which show the dealers who handle your publications and other magazines?

A. I believe that is correct.

Q. Now, do you know of any other towns within a year back that handled your publications and other magazines?

A. Yes, sir.

A. Will you give them?

A. I can give you Amsterdam as one of them, Saratoga Springs, Cohoes—that is all I think of at this moment.

Q. Now, may I have the reports covering those towns?

By Mr. Milburn:

Q. Now, Mr. Cooke, you said that there were fifteen agents out of thirty-five who handled Curtis only?

A. Yes.

Q. Well, then, to my idea of arithmetic that would leave twenty who handle other magazines?

A. That is right.

Q. Well, now, where are the twenty? We have got nine here. There must be some mistake somewhere. I want to find out where it is.

A. Perhaps I have not gone through the whole list there. I thought I did.

By Mr. Daly:

Q. You had better go through this list, Mr. Cooke, and pick out the towns—refresh your memory about it and get it straight.

A. My memory is all substantiated on those reports.

Q. I say, hadn't you better take the reports and look at them?

A. The quickest way to clear that matter up is to take each report by itself.

Q. Why don't you do it?

A. All right.

By Mr. Milburn:

Q. Have you got those figures straightened out now?

A. Yes.

Examiner Moore: We will adjourn until tomorrow at 10 o'clock.

(Whereupon at 5.15 o'clock P. M. an adjournment was taken until Wednesday, April 24, 1918, at 10 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
The Curtis Publishing Company } Docket No. 15.

Court Room 2, Woolworth Building,
New York City, N. Y.,
Wednesday, April 24, 1918.

The hearings in the above entitled matter were resumed at 10.20 o'clock A. M., pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission;
JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

T. F. COOKE resumed the stand and testified further, as follows:

By MR. MILBURN:

Q. Mr. Cooke, testifying yesterday, you gave the number of towns in which the agents under your supervision handled only the Curtis publications, and you were subsequently asked the list of towns that handled magazines other than Curtis magazines. Now, have you gone over your reports, and can you give us those figures accurately?

A. Eight.

Q. Which ones are the eight?

A. Where the district agents handle other magazines than the Curtis magazines.

Q. And the remainder of the thirty-five handle only Curtis—is that correct?

A. Yes, sir.

Q. That is a correction of your former testimony?

A. Yes, sir; a correction.

Q. Now, will you give us the names of the eight towns?

A. Poughkeepsie, Kingston, Gloversville, Cortland, Troy, Utica, White Plains and Port Chester.

CROSS-EXAMINATION (Continued).

By MR. DALY:

Q. Now, there are other cities, are there not, where your agents some time prior to the time you are speaking about here handled other magazines?

A. Yes, sir.

Q. Now, will you add that list of cities to this list you have given?

A. Amsterdam, Plattsburg, Saratoga Springs——

MR. SPIESS: How about Albany?

MR. DALY: Albany is in your territory, is it not?

A. Yes, sir; those are the only ones I can think of just at this minute.

By MR. DALY:

Q. Is Peekskill in your territory?

A. Yes, sir.

Q. Can you tell, by your reports, whether these two towns are in the same class as Amsterdam, Plattsburg and Saratoga Springs?

A. What two towns?

Q. Peekskill and Albany—whether or not you did not have agents there some time back that handled magazines?

A. I cannot tell you about Albany.

Q. You could not tell by your report?

A. I think there has been no change there since I took the territory, as far as the wholesaling of magazines is concerned.

Q. Now, you are a new man in this territory, are you not?

A. Comparatively, yes, sir.

Q. You have been there about a year and a half?

A. Since the 1st of December.

Q. A year ago.

A. No; last December.

Q. Only since last December?

A. Yes, sir.

Q. Then, you are not very familiar with the territory, are you?

A. I think for the time I have been on it I am fairly familiar with it. I do not know the territory as well as if I had been there three or four years.

Q. Have you been in all the cities?

A. With one or two exceptions, yes, sir.

Q. Have you seen the retailers in all of the cities?

A. Practically all of them.

Q. In Port Chester, your agent is Thomas Conley, is he not?

A. He was at the time that investigation was made.

Q. Do you know how long he was your agent?

A. I do not, but I understand a considerable length of time.

Q. And he handles your publications, or did handle your publications and Hearst and the "Pictorial Review"?

A. Yes, sir.

Q. And, then, besides that he handles the Hearst papers?

A. Yes, sir.

Q. He is still your agent?

A. Yes, sir; he is, but will not be a great while.

Q. Why?

A. Because he has received thirty days' notice.

Q. Does he handle "The Ladies' Home Journal" through boys?

A. I believe he does.

Q. Do you know to what extent?

A. I cannot tell you that definitely; no,

Q. Now, in that same city, your report shows that James Friedland handles the "New York Evening World," and Weinicke handles the "Globe," and that there is no other agent there that handles magazines—is that correct?

A. I believe it is.

Q. And that has been the condition for some time past, as you understand it, has it not?

A. I cannot speak for any time back of the investigation.

Q. You said a while ago——

A. I said I understood he had been our agent for some time.

Q. And it is your purpose to change Conley, is it not?

A. He has already received his notice.

Q. And the reason for that is what?

A. The notice was given from the home office.

Q. You know why it is to be done—because he is handling the "Review," is it not?

A. Very likely.

Q. As a matter of fact——

A. That is one of the reasons.

Q. That is the main reason, is it not?

A. I do not know that that is any more the main reason than any other reason. He did not live up to his obligations.

Q. He is an old agent, is he not?

A. Yes, sir.

Q. He has been handling your papers for a long time, and now you are going to change him?

A. You bet your life.

Q. Now, in White Plains your agent is Archie Goldberg?

A. The same situation exists as at Port Chester.

Q. He handles the Hearst publications, "Pictorial Review" and Curtis publications——

A. Yes, sir.

Q. There is no other wholesale magazine dealer there?

A. I think not.

Q. And he is your agent and has been for a considerable period?

A. Yes, sir.

Q. Are you going to change him?

A. He has received his notice.

Q. And the reason, of course, is that he is handling the "Pictorial Review"?

A. That is the main reason in his case.

Q. And there is no other wholesaler there?

A. No other wholesaler of magazines at the time the investigation was made—no.

Q. I think I have asked you if this man had not been there for quite a while?

A. At White Plains?

Q. Yes.

A. Yes, sir; I understand he has been there several years.

Q. Take Utica.

A. Yes.

Q. In Utica Mr. Wolf is the large wholesaler of magazines?

A. I believe he is.

Q. And your agent is Mr. Stone?

A. Yes, sir.

Q. It shows here that he handles Curtis publications and "Collier's." Do you know whether or not the "Pictorial Review" or "Every Week" approached your agent there trying to get him to handle their magazines?

A. I cannot give you that information.

Q. You do not know that?

A. No, sir.

Q. You never heard them say that?

A. No, sir.

Q. Do you know whether or not they tried to get his boys there?

A. I do not know anything about that.

Q. How long has Stone been your agent?

A. I believe nearly a year.

Q. Who was your agent there before that time?

A. I cannot tell you about that.

Q. Was Mr. Wolf your agent?

A. Not prior to Mr. Stone.

Q. When was he your agent, if at all?

A. Why, I have no very definite information about his being our agent. I heard an intimation that he was once our agent.

Q. Now, your agent handles "The Ladies' Home Journal" there?

Q. Do you know to what extent he handles "The Ladies' Home Journal" through boys?

A. To the same extent that the other agents do, as far as I understand the situation.

Q. I am asking if you know to what extent he does.

A. What do you mean by—do you mean definite figures, circulation?

Q. Yes.

A. I cannot give the exact numbers. The boys peddle them the same as at other places.

Q. I know that, but I wanted to know to what extent he sold through boys.

A. I could not give those figures.

Q. Now, in Troy, New York, Mr. Ramroth is your agent?

A. Yes, sir.

Q. He handles the "Troy Sunday Budget," the "New York Evening World," the "New York Telegram," "Albany Times-Union," Curtis publications, "Collier's" and "Literary Digest." Now, do you know whether or not Ramroth was given permission to handle the "Pictorial Review" and afterwards denied it?

A. I cannot give you that information—no. If that was so, it was prior to my going on the territory.

Q. Mr. Ramroth was the leading wholesaler there, was he not?

A. What do you mean by "leading"?

Q. He was, prior to taking on the "Pictorial Review"—prior to the "Pictorial Review" leaving him.

A. There are three main wholesalers in Troy.

Q. One of them is the American News Company?

A. The Northern News Company.

Q. Is not that a part of the American News Company?

A. I believe so—a branch.

Q. Leaving out that, there is only one more?

A. Sheldon.

Q. Sheldon did not handle, until recently, any publications except the Hearst publications?

A. I do not know about how recently. All I know is there.

Q. Do you know what he handled when you took hold of this work?

A. The information I obtained at the time the investigation was made is there.

Q. The second month and 23d day of 1918?

A. Yes, sir.

Q. You do not know when he took on the "Pictorial Review," do you—or "Motion Pictures"?

A. No, sir.

Q. Nor "Motion Picture Classics"?

A. No, sir.

Q. Now, as a matter of fact, the "Pictorial Review" went independent about May, 1917—you know that, don't you?

A. That has been my information.

Q. In Troy?

A. I do not know about Troy.

Q. And prior to that, this man, then, would only have the Hearst publications—would not that be correct?

A. And the "Motion Picture" magazines—some of those others you mentioned.

Q. Was the Motion Picture Company one of the concerns that went independent about the same time that the "Pictorial Review" did—September of last year?

A. I cannot tell you about the time. I know it is handled independently.

Q. It is handled independently, and it was handled about this period, was it not?

A. I do not know about the time.

Q. Then, if the Motion Picture Company went independent somewhere about the same time that the "Pictorial Review" did, then prior to that—that independent movement that I have spoken about—he would handle nothing but Hearst publications?

A. You say "if."

Q. The "Pictorial Review" broke away in the spring of 1917, and "Motion Pictures" in September, 1917, as a matter of fact.

A. That I do not know anything about.

Q. You do not know that?

A. No, sir.

Q. In Gloversville, The Gloversville News Agency is your medium for distributing your papers?

A. Yes, sir.

Q. And they handle the "New York Journal," "New York American," the "New York Evening World," Curtis publications, "Collier's" and Hearst?

A. Yes, sir.

Q. And Mr. Way handles the Crowell publications, "Pictorial Review" and "Motion Pictures"?

A. Yes, sir.

Q. Do you know whether or not the Gloversville News Agency ever handled the "Pictorial Review"?

A. I do not.

Q. Do you know whether they were ever asked?

A. Just a minute.

Q. (Continuing) —by the "Pictorial" company or the Crowell company?

A. I think they were by the "Pictorial."

Q. And they were not permitted to do it, were they?

A. No.

Q. Then the "Pictorial Review" got another agent, Mr. Way, as your report shows—is that correct?

A. They have that agency there now.

Q. And Crowell have that agency and "Motion Pictures" have that agent—is that correct?

A. I do not remember about Crowell.

Q. As a matter of fact, the Gloversville News Agency must have been the original agency there?

A. I cannot say.

Q. Don't you know anything about this independent movement—don't you know about when it started? How long have you been in this business?

A. What business—roadman?

Q. Yes.

A. Since the first of December.

Q. What did you do before that?

A. I was district agent.

Q. Do you not have sufficient knowledge of this industry to know when this independent movement began?

A. I did not pay any particular attention to it. I got frequent letters from the "Pictorial Review" when I was district agent.

Q. You can give approximately the date, can you not?

A. I cannot do that. I remember getting one letter from the "Pictorial Review" as much as three years ago.

Q. I am speaking about this independent movement, and I want to know what you know about that?

A. Very little.

Q. Do you know who Harold Way is up there?

A. I never met him.

Q. Did you see him—how did you get this information?

A. I got it from the store where he handles these publications; I was told——

Q. Who told you he handled the "Pictorial Review"?

A. The man in the store.

Q. What man?

A. Oh, yes; I saw him. As I recall now, he came in while I was there and told me himself.

Q. Mr. Way told you?

A. When I first went in——

Q. What day was that?

A. It is on there.

A. It says here March 7, 1918. He was handling "Pictorial Review" in a wholesale way?

A. Yes, sir.

Q. Did he say he handled the Crowell publications in the same way?

A. I do not remember the details of that. Whatever I put on the sheet he told me.

Q. Is he a retailer, or what is he?

A. He is in business with this other man in the store there, or is employed there. I do not remember the exact connection. I think he is an employe.

Q. What is the store?

A. It is a general stationery store.

Q. Then, this man was not a general wholesaler before taking on "Pictorial" and Crowell publications?

A. I do not know what he did prior to that. I am only giving what was the condition when I visited there.

Q. Didn't you ask him what he did before he took on the "Pictorial Review"?

A. No, sir; I was not interested.

Q. Do you know whether or not Way works for Mr. Alvord or not—the Gloversville News Agency?

A. This was not Mr. Alvord's store where he handles his papers. That is another address there.

Q. Then Way and Alvord are really connected?

A. I have no knowledge of their being connected.

Q. He is a clerk in Alvord's store?

A. I said it was a different store. I do not know of any connection between the two stores.

Q. We will go to Kingston. Now, then, in Kingston, Mr. O'Reilly is your man, is he not?

A. Mr. O'Reilly; yes.

Q. He handles the "Knickerbocker Press," "New York American," Hearst's magazines, "Literary Digest" and Curtis publications. Do you know how long he has been your agent up there?

A. I think for a considerable number of years.

Q. Do you know whether or not the "Pictorial Review" tried to obtain him as their representative up there?

A. That knowledge I have not got; no.

Q. You do not know that?

A. No, sir.

Q. This report shows that Murphy handles "Every Week," "American Magazine" and the Woman's Home Companion. They are the Crowell publications, are they not?

A. Yes, sir.

Q. Now, J. Shepherd handles the "Pictorial Review" and "Collier's"?

A. Yes, sir.

Q. Do you know how long he has handled "Collier's" or the "Pictorial Review"?

A. No, sir.

Q. It would be after this independent movement started, would it not?

A. I have not the slightest idea.

Q. You know, as a matter of fact, they were handling it through the news company before that?

A. I do not know anything about that.

Q. You looked over these towns to find out all the wholesalers or magazines, did you not, Mr. Cooke?

A. Yes, sir.

Q. And Mr. O'Reilly was the leading man there, was he not?

A. We consider him the best man for our purpose.

Q. What is that?

A. We consider him the best man for our purpose.

Q. This report was made on the second month, twenty-fifth day, of this year?

A. Yes, sir.

Q. Do you know anything about the distribution of "The Ladies' Home Journal" through boys in that territory?

A. Just what do you mean?

Q. To what extent are they handled through boys —are they all sold through boys?

A. No.

Q. How else are they sold?

A. Through retailers.

Q. Do you know the percentage in your territory that are handled by the retailers and by the boys—could you give us that?

A. I could not give it exactly; I should say approximately fifty per cent.

Q. You think that would apply throughout the district—speaking approximately?

A. As near as I could give it.

Q. What investigation did you make in Poughkeepsie?

A. The same as in the other towns.

Q. What did you do there when you made this investigation?

A. Why, I visited the different wholesalers and retailers.

Q. Did you see all of the retailers?

A. Probably not all of them. I saw enough to get the information necessary.

Q. Do you know how many retailers there are in that city?

A. I cannot give you the number, no.

Q. Can you tell me how many you saw?

A. I cannot give you that.

Q. Did you see four or five?

A. At least as many as that, I should say.

Q. You don't know how many there are there, of course, do you?

A. I do not know how many retailers, no.

Q. Now, your report says that Peter Zeighen handles your magazines, "Hearst's," "Collier's," "Lit-

erary Digest"—do you know when he took on the "Literary Digest"?

A. No; I do not.

Q. Do you know when he took on "Collier's"?

A. No, sir.

Q. Do you know how long he has been your representative there?

A. A long time. I think he is one of the oldest ones.

Q. Several years, as a matter of fact?

A. Yes.

Q. Do you know whether or not he was asked to take on the "Pictorial Review"?

A. I have no knowledge.

Q. Or the Crowell Company?

A. No.

Q. You don't know that?

A. No.

Q. Now, your report shows that he also handles the "New York Evening Journal" and other Hearst papers; that is correct, is it?

A. I believe so.

Q. The Queen City News Company handles other newspapers. Eugene Kaiser handles certain papers, and the Queen City News Company handles Crowell, Warner and "Pictorial Review"?

A. And various other magazines on that slip attached.

Q. The Queen City News Company is a new concern there?

A. I think not very recently. I think they have been there for several years.

Q. Were they handling magazines several years, do you think?

A. I understand so.

Q. Who told you that?

A. The proprietor, Mr. Hanford.

Q. Didn't he say that he had handled Crowell publications for several years?

A. I did not ask him about any particular magazine.

Q. And these motion picture publications—do you think he handled them for several years?

A. I had quite a long talk with Mr. Hanford, and the impression I got from him was he had been there several years, wholesaling magazines.

Q. You don't know, as a matter of fact, whether the "Pictorial Review" was the first publication he handled, do you?

A. No; I do not.

Q. Prior to the taking on of the "Pictorial Review" and the Crowell publications, by the Queen City News Company, as a matter of fact, Mr. Zeighen was the leading wholesaler there, was he not?

A. That was before my advent into the territory. I cannot give you any information about that.

MR. DALY: I am trying to save calling somebody from up there. It seems to me that we could get that in the record—the exact situation.

MR. MILBURN: At Poughkeepsie?

MR. DALY: Yes; he does not seem to know.

MR. MILBURN: You mean who used to be the main wholesaler there?

MR. DALY: Yes.

THE WITNESS: My impression, from talking with Mr. Hanford was, as I said, that he was in the magazine business for two or three years. If, as you say, the independent movement started last year, then he would have been in the wholesale business prior to that.

MR. DALY: He might have been on small magazines, though.

MR. MILBURN: "Collier's" had been handled

by a lot of agents, long before the independent movement started.

MR. DALY: Never mind; we will show it.

By MR. DALY:

Q. Take Cortland, New York. Your agent there is Mr. Dexter, and he handles Hearst's and Curtis publications, and Mr. Mather handles the "Pictorial Review"; that is correct, is it not?

A. It is.

Q. Then, as a matter of fact, Dexter is the leading wholesaler there in the way of magazines?

A. We consider him the best for our purpose.

Q. Do you know how long he has been your representative?

A. No; I cannot tell you that.

Q. He is one of the older men, is he not?

A. I do not know.

MR. MILBURN: A great many years, Mr. Daly.

By MR. DALY:

Q. Now, give me the population of Port Chester, can you?

A. Why, I cannot definitely, no—10,000, perhaps.

Q. White Plains?

A. White Plains, about 22,000, I think.

Q. Utica?

A. Oh, Port Chester is larger than 10,000. It is about 15,000, I think.

Q. Utica?

A. Utica, why, 100,000. I am not definite on these figures.

Q. I want you to be definite, if you know, but approximately, if not. Troy?

A. Troy is about 75,000 or 80,000.

Q. Gloversville?

A. About 22,000.

Q. Kingston?

A. I don't remember about Kingston.

Q. Poughkeepsie?

A. I should say about 30,000 or 35,000.

Q. Cortland?

A. Cortland, perhaps 5000.

Q. Now in Peekskill, New York, you made an investigation?

A. Yes, sir.

Q. Your report shows that Kirschberg and Company handle the "New York World," "Sun," "Telegram" and the Curtis publications, and that he is the only man there that handles any magazines. That is correct, is it not?

A. Well, that was correct to the best of my knowledge, that I could get at the time I was there. Later, I found out a little different situation.

Q. What is the situation now?

A. I found out that he was the only one handling it; yes, that is correct.

Q. Now, what is the situation there now, if there has been any change?

A. I put him down there—I found later that he is handling "Pictorial Review" in a very small way, and not realizing that he was wholesaling it himself—supplying one other dealer.

Q. Did he handle any other magazine than "Pictorial Review"?

A. Besides Curtis?

Q. Yes.

A. I really don't remember. That information is on the sheet there.

Q. Are you going to permit him to handle the "Pictorial Review"?

A. No, sir.

Q. Is he an old agent or not?

A. This agent, Kirschberg & Company, formerly

was Kirschberg & Green, and has been changed to Green & Kirschberg, been a change in agency there.

Q. What business are they in?

A. General newspaper, stationery, tobacco, candy.

Q. How big a place is Peekskill?

A. Six or eight thousand, I think.

Q. Can you state how many of them have been put under the new contract?

A. I think all I have testified about, with the exception of perhaps Cortland. Have you got that list there? If you will let me have that list I can tell you. I think all of them with the exception of Cortland that I have testified in regard to.

Q. Well, if there is any difference, you can change it afterwards?

A. Yes, sir.

Q. Now, Saratoga Springs. Stroup was your agent formerly, was he not?

A. Yes, sir.

Q. Now, your agent is Mr. Irons?

A. Yes, sir.

Q. Why was that change made?

A. For the same reason as the others.

Q. Do you know about when it was made?

A. Yes, sir; early in December.

Q. Last year?

A. 1917, yes.

Q. Prior to the time that this change was made, Mr. Stroup was the only wholesaler of magazines in that city; is not that correct?

A. I believe he was.

Q. What is the size of it?

A. Twelve thousand.

Q. In Albany, do you know who Mr. Picard is?

A. Yes, sir.

Q. What is his business?

A. Well, he formerly had a store. I believe he has given up his store and he is a wholesaler of newspapers.

Q. Does he handle any magazines except "Every Week"?

A. I think not.

Q. Frank McDuff handles the "Pictorial Review"?

A. Yes, sir.

Q. Does not handle any other, does he?

A. I believe not.

Q. Now, Mr. Callahan, your report shows, handles "Collier's," Curtis publications, "Literary Digest." How long has he handled the "Digest"?

A. I am sure I don't know; probably the same as since it went independently, I presume. I cannot give you any definite information about that.

Q. Now, then, Mr. Callahan is the leading wholesaler of magazines there, in your opinion, is he not?

A. I believe he is.

Q. He is your agent?

A. No, sir.

Q. He was your agent, was he not?

A. He was, yes.

Q. What happened to him?

A. We made a change.

Q. When?

A. About six weeks ago.

Q. And the reason was on account of the "Pictorial Review," was it not?

A. No, sir.

Q. What was the reason

A. General lack of ambition and push and various other reasons.

Q. Do you know whether the "Pictorial Review" tried to obtain the services of Mr. Callahan?

A. I cannot tell you.

Q. Or whether "Every Week" tried to?

A. I cannot tell you.

MR. MILBURN: Mr. Daly, when you ask that question, Mr. Crummett knows the situation. "Pictorial" did try to get Callahan.

MR. DALY: That is what I was informed, and he was not given permission.

MR. MILBURN: That is correct.

MR. DALY: And he handled "Every Week" also, did he not?

MR. MILBURN: Crummett says he did not, but some boy up there with Pickard handled "Every Week." Callahan put on "Every Week," Curtis objected, and he ceased handling "Every Week," who then went to Pickard?

By MR. DALY:

Q. How large a city is that?

A. Albany?

Q. Yes.

A. About 110,000, I believe.

Q. Is Mr. Callahan under the new contract?

A. No, sir. Mr. Callahan is not our agent.

Q. Your man there is under the new contract?

A. Yes, sir.

Q. Now, your report shows that one Sheffler is a wholesaler of magazines there. Do you know how long he has handled "Pictorial Review"?

A. What town are you talking about?

Q. Amsterdam. I thought I had called your attention to that town.

A. Do I know how long he has wholesaled it?

Q. "Pictorial Review"?

A. No; I don't know how long.

Q. "Collier's"?

A. No, sir.

Q. Nor Crowell publications?

A. No, sir.

Q. Do you know whether or not he was ever a Curtis agent there?

A. Yes, sir; he was.

Q. How long ago was that?

A. Well, the change was made, I think, in January.

Q. Of this year?

A. Yes.

Q. Do you know why that change was made?

A. Yes, sir.

Q. Why was that?

A. Because he was handling "Pictorial."

Q. Then, at the time this change was made he was the leading wholesaler there, was he not?

A. Yes, sir.

Q. And he is your agent there now——

A. Wait just a moment. You say the leading wholesaler in magazines. I think it is open to question. I think there is another man there, Mr. Creighton, who does fully as much as he does.

Q. He only handles Hearst's.

A. I had the impression he handled more than that.

Q. Mr. Canary handles your publications?

A. Yes, sir.

Q. What is the size of this city?

A. About 40,000.

Q. About Plattsburg?

A. I know about the district agent in Plattsburg because I appointed him.

Q. Do you know the conditions in Plattsburg?

A. What sort of conditions do you mean?

Q. These very conditions we are talking about. How many wholesalers are there?

A. I think there are two. Mr. Waner got that information. Our district agent is Mr. Goldthorpe.

2077

Q. Do you know how long he has been that?

A. Yes, sir.

Q. When was he appointed?

A. He was appointed soon after the Saratoga change was made, some time in December, I believe.

Q. Last year?

A. Last December, yes.

Q. Buskie & Mitchell handle "Pictorial Review," "Every Week," "Literary Digest" and the Hearst group. Did he handle your publications?

A. Yes.

Q. Why did you change him?

A. Because he sold "Pictorial."

Q. He was the leading wholesaler there at that time, was he not?

A. He was.

Q. Still is, is he not?

A. I believe he is.

Q. What is the size of Plattsburg, do you know?

A. Ten or twelve thousand, I think.

Q. Your object is, of course, in appointing agents to select the best man, every time?

A. That is our object.

Q. And that goes without saying?

A. Sure.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Did you appoint Goldthorpe?

A. Yes, sir.

Q. What was he?

A. A boy, worked as secretary in the Y. M. C. A.

Q. And the other man is still doing business there, is he?

A. I believe he is.

Q. In Amsterdam, Sheffler was our agent?

A. Yes, sir.

Q. Is he still doing business with the wholesaler?

A. Yes, sir.

Q. To whom did we change?

A. Mr. Canary.

Q. At that time, was Creighton there also?

A. Yes, sir.

Q. Handling Hearst publications?

A. Yes, sir.

Q. There are a considerable number of Hearst publications, are there not?

A. Three or four, at least.

Q. What was Canary? Do you know who he was?

A. He has a candy store and tobacco.

Q. So now, Canary, Creighton and Sheffler are all selling magazines?

A. Yes.

Q. At Albany the same situation applies, does it not?

A. Yes, sir.

Q. We changed from Callahan to Reilly?

A. Yes.

Q. Is Callahan still wholesaling there?

A. Yes, sir.

Q. I think you stated he is the principal wholesaler?

A. I did.

Q. What does Reilly do?

A. Employed by the "Knickerbocker Press," foreman in the mailing department.

Q. Picard & McGovern are wholesaling?

A. Yes, sir.

Q. Does Canary have any magazines but Curtis's now at wholesale?

A. No, sir.

Q. Reilly, how about him?

A. No, sir.

Q. At Saratoga, is Mr. Stroup still in the wholesale magazine business?

A. Yes, sir.

Q. And our agent is Irons; is that correct?

A. Yes, sir.

Q. Do you know what Irons handles now?

A. Nothing except Curtis. He is a high school boy.

Q. Do you know the situation in respect to Peekskill?

A. Yes, sir.

Q. Who is Benski at Peekskill? I will show you your report and see if that will refresh your recollection.

A. Well, he is a dealer in newspapers.

Q. Is he a newspaper wholesaler?

A. Yes, sir.

Q. Is your knowledge of this district, which you cover, what you have gained since last December?

A. Yes.

Q. And during that time, have you been directing your energies to a special investigation?

A. Yes, sir.

Q. For the Curtis Company?

A. Yes, sir.

Q. That is the special investigation we are talking about?

A. Yes, sir; in regard to wholesalers.

Q. At Cortland, did you say Mr. Dexter is still the Curtis agent?

A. Yes, sir.

Q. How many newspaper wholesalers are there there?

A. Where?

Q. Well, I will withdraw that question. I think

you were asked whether you knew how long Mr. Shepard had handled the "Collier's" at wholesale in Kingston. Did you answer that question?

A. No; I don't know how long.

Q. How many magazine wholesalers are there in Kingston now?

A. Three.

Q. In Utica, is Wolf still doing business as a wholesaler?

A. Yes, sir.

Q. I think you testified that he was the principal wholesaler there?

A. Yes, sir.

Q. And Stone now handles the Curtis?

A. Yes, sir.

Q. Does he handle that exclusively, do you know?

A. I think he handles "Collier's."

Q. "Collier's" and Curtis's?

A. Yes.

Q. Have you placed any of these new agents?

A. Oh, yes.

Q. Had any difficulty in placing them?

A. Not any particular difficulty, no.

Q. Ever pay any bonus or enter into any arrangement there, other than a straight contract?

A. I never paid any bonus and never paid any other arrangement.

Q. Have you made any efforts to put a new agent into Port Chester and White Plains yet?

A. Yes.

Q. You said you were going to make this change?

A. The change has been made. They received their notices from the home office.

Q. And new men in?

A. Yes, sir.

Q. When will they begin handling the papers?

A. Issue of May 25th.

Q. Did you have any trouble in finding men for those places?

A. No, sir.

Q. Do you know anything about the situation with reference to Schenectady, other than what you have put on your report as to how long the different wholesalers are handling magazines?

A. I know how long our district agent has been our representative; that is practically all.

Q. How long has he been there?

A. Since last July, I believe.

Q. Do you know whether he was approached by "Pictorial" or not, to handle "Pictorial"?

A. Whether he has been since that time?

Q. Yes.

A. I don't know.

Q. Who was the agent before Flanigan, our agent?

A. I cannot give you that.

MR. MILBURN: All right.

(Witness excused.)

C. S. CRUMMETT, called as a witness in behalf of the respondent, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you employed by the Curtis Company?

A. Yes, sir.

Q. What is your business now—in what capacity now?

A. Boys' counselor.

Q. Is that throughout the country?

A. I have been working under—developing a special plan in New England.

Q. Before you undertook that plan, had you been a roadman or a superitnendent?

A. Yes.

Q. And have you had charge of some of this territory covered by Mr. Cooke?

A. Yes, sir.

Q. So that you are familiar with that territory?

A. Yes, sir.

Q. Although you make no reports?

A. Yes, sir.

Q. And your familiarity dates back to the time when you left?

A. Yes, sir.

Q. When did you leave?

A. December 1, 1917.

Q. You were his immediate predecessor?

A. Yes, sir.

Q. Do you know who was the Curtis agent at Troy?

A. Yes, sir.

Q. Who was he?

A. John C. Ramroct.

Q. And do you know a wholesaler there called Sheldon?

A. Yes, sir.

Q. How long has he been there?

A. He was there before Mr. Ramroct was in the wholesale business. Ramroct worked for Sheldon before he went into the business for himself.

Q. What did Ramroct start in business for?

A. For our account.

Q. And Sheldon has continued as a wholesaler there all the time?

A. Yes, sir.

Q. What has he handled principally?

A. The largest account, I think, is the Hearst publications.

Q. Who was the wholesaler in Saratoga?

A. Who was who?

Q. Our agent.

A. Mr. Stroup was our agent when I left the territory.

Q. Do you know that he was subsequently changed?

A. Yes, sir.

Q. Do you know why?

A. Yes, sir.

Q. Why?

A. He was handling the "Pictorial Review"?

Q. Under what circumstances did he handle it?

A. He was asked—I understand that he was asked to take on the "Pictorial Review" as a wholesale distributor, and he was informed that it would not be in accordance with the wishes of the Curtis Publishing Company, and so it was given to his clerk—a woman clerk there—who handled it in her name, but used the equipment of Mr. Stroup.

Q. He practically handled it through her name?

A. Yes, sir.

Q. Since you left that work, will you describe just briefly the work you are doing now?

A. In order to describe that I will have to give in detail how the plan started. Is that what you want?

Q. No; I do not want too much of that in the record. Are you engaged in visiting the different towns of New England and cementing—arranging the relations between the Y. M. C. A. branches and the Curtis agents?

A. Yes, sir.

Q. You have been doing that for some time?

Q. What do you do when you go into a town?

A. I first go to the boy's secretary, if there is one, of the Y. M. C. A., and then I explain in detail our vo-

cational plan, in full. Do you want an outline of that?

Q. Yes, but make it short, and how you happened to start?

A. I explain to the Y. M. C. A. secretary what happened at a convention of the Y. M. C. A. secretaries at Boston, in December, 1916, whereupon the Y. M. C. A. convention appointed a committee to devise ways and means by which the Curtis Publishing Company and the Y. M. C. A. could co-operate to the best advantage of the 50,000 boys who are selling Curtis publications. That plan——

MR. DALY: It has grown 10,000 since we have been in this case.

MR. MILBURN: It goes up and down.

THE WITNESS: That plan provided for meetings of the boys in each town at the Y. M. C. A., once every two weeks, under the direction of the Y. M. C. A. officials. At that meeting prominent business men give the boys a short business talk along inspirational lines and salesmanship lines. A very definite programme for the entertainment, as well as for the interest of the boy, is carried on at these meetings; the district agent is jointly responsible with the Y. M. C. A. secretaries for the success of these meetings, and——

Q. As I understand it, you devote yourself to going around this territory putting that plan into execution?

A. Yes, sir.

Q. And does the Curtis Publishing Company detail you to this task at the suggetion of the Y. M. C. A.—do you know anything about that?

A. Yes, sir; we were first approached, as I understand it, by a Y. M. C. A. official, to see how we could co-operate to the benefit of the boy.

Q. And that is all you do now?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you have put in quite a number of agents in your day, have you not?

A. Yes, sir.

Q. You have put in quite a number of agents, have you not?

A. Yes, sir.

Q. Now, you know, of course, about this plan of putting in new agents?

A. Yes, sir.

Q. Do you not frequently have to do a great deal of work with a new agent after he is appointed, in order to build up a business? I think that has been testified to in this case?

A. Yes, sir.

Q. That is a common practice, is it not?

A. Yes, sir.

Q. And it is a matter of necessity, is it not, in establishing an agency, to do all this extra promotional work, etc.?

A. That is part of our programme; yes, sir.

Q. It is a necessity, is it not, to make the thing grow properly?

A. Yes, sir; I should say so.

Q. Now, of course, that is rather an expensive proposition, is it not?

A. It costs money.

Q. Now, as a matter of fact, in the Y. M. C. A. work, the Y. M. C. A. has various courses that it gives to its members, does it not, of its own—a law course and various courses that they present—that is part of their plan; is it not?

A. In some towns; yes, sir.

Q. And in Boston, they have various courses, do they not?

A. Yes, sir.

Q. And they have their other courses for the boys, do they not?

A. In some towns; yes, sir.

Q. You were speaking of Boston. You did not mention a convention in Boston?

A. Oh, yes.

Q. They teach salesmanship to their boys, do they not, as a matter of fact—to all boys? That is one of their courses, is it not?

A. If they have a class in salesmanship; yes, sir.

Q. Then what you are testifying about is your work in connection with that effort of theirs, is it not?

A. May I ask you to explain that question a little?

Q. The work that you do with your boys that are members of the Y. M. C. A., is done in connection with them in carrying out this plan of theirs—is not that true?

A. I do not know what you mean by "their plan." Am I carrying out their plan?

Q. You have testified that they have a course in salesmanship for boys in some instances.

MR. MILBURN: I think he said *if* they have a course in salesmanship.

THE WITNESS: They have courses of salesmanship in some towns, I believe.

By MR. DALY:

Q. As a matter of fact, the boys who are not members of the Y. M. C. A. do not get the benefit of that?

A. They would not get the benefit of any classes in the Y. M. C. A., unless they were members of the Y. M. C. A.

Q. A very small percentage of your boys are members of the Y. M. C. A.?

A. Very small; yes, sir.

Q. And one of your objects in working with the

Y. M. C. A., is to secure boys for your organization, is it not?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You testified that in placing an agent, the road men frequently had to stay there and do special work with him?

A. Yes, sir.

Q. Is that work devoted to distribution through boys alone?

A. Boys and dealers.

Q. You do not have to do much training to teach a man to deliver to dealers, do you?

A. No, sir.

Q. Is not that practically taking the magazines and turning them over to the dealers?

A. This promotive work is almost entirely with the boys.

Q. That is what I thought. I forgot to ask you this question. Who is the agent at Schenectady?—do you know?

A. Mr. Flanigan.

Q. When was he appointed?

A. July of last year.

Q. Who is Joseph Morlock?

A. He is the leading wholesaler of magazines and newspapers in Schenectady.

Q. Does he handle other big publications?

A. Yes, sir.

Q. Is there a branch of the Albany News Company there, too?

A. I think there is; yes, sir. I think the Albany News service is in Schenectady.

Q. And that handles magazines?

A. Yes, sir.

Q. Do you know whether Flanigan—what magazines does he handle?

A. Curtis magazines.

Q. Do you know whether he was asked to handle the "Pictorial"?

A. I do not think so.

Q. Who was our previous agent?

A. Mr. Dorcher.

Q. Did he handle Curtis magazines only?

A. He handles Curtis magazines, and I believe the "Utica Globe."

Q. Do you know whether he was asked to handle "Pictorial"?

A. Yes, sir.

Q. At the time he was asked, was Morlock and this branch of the Albany News Company operating as wholesalers?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. In putting in these district agents, you frequently go into the community and stay for a considerable length of time before you appoint them, do you not, and build up your circulation in that community and make it attractive for someone to take on your agency—is not that correct?

A. I do not think—I should say no to that question.

Q. What do you do prior to taking on an agency?

A. I do not try to build up the circulation.

Q. You frequently go into a community and remain there some time before you select an agent, do you not?

A. It depends on the case.

Q. I say, in a lot of cases?

A. I would not—occasionally it has been done; certainly.

Q. Why do you do that?

A. May I change that reply?

Q. Yes, we want to get it right?

A. I cannot think of a town that I have gone into and have spent a long time in there before I have appointed an agent.

Q. Well, some time?

A. I cannot think of any.

Q. You do not know of any town, then?

A. I do not recall any.

Q. You cannot testify, then, generally, about that, can you—what other men do about that?

A. I am speaking for myself.

Q. That is what I want out of you. You never did it?

A. I cannot recall doing it.

Q. How many agents have you appointed, in all, in your experience—all told, approximately?

A. I should say between ten and twenty.

Q. And that is your experience in that line?

A. Possibly more than that.

Q. When did you first learn that Mr. Callahan's services were unsatisfactory?

A. Through my general dealings with him.

Q. When was that? When did you first make up your mind that he was an unsatisfactory agent?

A. That was a gradual process—coming to that opinion.

Q. How long did it take you to make up your mind—two or three years?

A. A number of weeks.

Q. He had been your agent for a long while, had he not?

A. Yes, sir.

Q. And when did you conclude, after revolving it around in your mind, when he became unsatisfactory?

A. I should think a few months after I had met him.

Q. When was it—I am trying to get the time.

A. I should think——

Q. I do not mean the exact minute, but about when was it?

A. Why, to be approximate, about a year ago.

Q. But you did not change him until recently, did you?

A. I did not change him at all.

Q. He has been changed, though, recently?

A. Yes, sir.

Q. Did you look for anybody in that community to take on your agency during this unsatisfactory period?

A. Yes, sir.

Q. How much attention did you give to that?

A. My home is—or I had my family in Albany and I live there, and in coming in and out I was—I would look around and make casual inquiries.

Q. Well, it took quite a while to make up your mind whom you wanted in his place, did it not? Is not that correct? You made considerable investigation, did you not?

A. It was on my mind, and when I heard of anybody that looked like a desirable prospect, I would look him up.

Q. You did not succeed, however, in getting one that was satisfactory until recently?

A. I did not change the agency there.

Q. Whom did you recommend up there? You say you were looking the matter up and inquiring about a man; whom did you suggest as a successor to Callahan—you did that, did you not?

A. You mean, did I make a recommendation to the home office of a successor to Callahan?

Q. Yes.

A. I would not make any recommendation, because it was within my power to change that agency if I wanted to change it. I did not make any particular recommendation to the home office.

Q. Why did you not change it before—that is what I want to get at.

A. The conditions were such that it did not seem desirable to do so.

Q. Why do you not tell right out about that? We all want to be frank about this. This is a hearing conducted by the Government—come right out.

MR. MILBURN: I do not think he wants to hide anything.

MR. DOUGLAS: Let me tell you.

MR. DALY: Go ahead.

MR. DOUGLAS: These men have worked for months under positive instructions not to change agencies and not to say anything about the case.

MR. DALY. He was looking up, during this time, he testified, a new man.

THE WITNESS: When I heard of a man I looked him up.

By MR. DALY:

Q. How many did you look up?

A. Two or three; I do not remember who they were, except one.

Q. You got these instructions Mr. Douglas has put into the record here. Is that correct?

A. Yes, sir.

Q. During that period did you make any effort to change agencies, or establish new agencies?

A. No, sir.

Q. You did not, in any case, in your district?

A. No, sir.

Q. Do you know when you got these instructions?

A. As I remember it, it was along in May, if my memory serves me.

Q. May of when?

A. Last year.

Q. Are you sure it was May, or was it not July?

A. I should say it was in May.

Q. It was in writing, was it not?

A. Yes, sir.

Q. Will you look at this paper (handing paper to witness)—are not those the instructions that you got?

A. Yes, sir.

Q. That was the one, was it not?

A. Yes, sir.

Q. Then, that was in July, instead of May?

A. Yes, sir.

Q. You want to correct your answer?

A. Yes, sir.

MR. DALY: We offer that in evidence.

MR. MILBURN: There is no objection to this.

(The paper referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 198," and the same is as follows:)

COMMISSION'S EXHIBIT No. 198.

"THE CURTIS PUBLISHING COMPANY
Circulation Department
Sales Division

Bulletin No. 378. July 7, 1917.
For Miss Boyle.

Subject: CONTRACT POLICY BASED ON JUDGE HAND'S DECISION.

The decision upholds the restrictive clause of

the contracts now in effect. There is no present need of substituting district or Special Agency contract forms other than those now in effect. You may, therefore, resume using, in the usual way, the same forms now in effect.

Just forget that we even contemplated any different form of contract. Heretofore you have said nothing about it. Hereafter say nothing. "Least said soonest mended."

Write no contract with any firm or person wholesaling Group I or Group II publications with or without a Group I or Group II contract. In all new appointments the incoming agent must be one without any promotive, collective or distributive connection with the local management of any Group I or Group II wholesale agents. Complete and total separation of such relations must be maintained.

DISTRICT AGENTS "OFF SIDE" AS TO GROUPS I AND II.

Presumably each one will carefully read the Court's decision, a copy of which was mailed to him on June 29th. Each who reads and understands it and really desires to retain our agency may fairly be expected to get "on side" without further word from us.

Yet doubtless certain of the few in question will fail to read the decision. Others may not understand its effect and bearing upon their contract and cash security with us. We must tactfully and in friendly fashion bring them to an understanding.

No drastic, ruthless method or policy is desirable or necessary. Our position is generally a most favorable one and we can afford to be mag-

nanimous. A broad policy of liberal and considerate treatment of such District Agents will be wise.

Bulletin No. 378. Date, July 7, 1917.

Subject: CONTRACT POLICY BASED ON JUDGE HAND'S DECISION.

Received this date.....

Superintendent.....

DON C. SEITZ, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Seitz, are you connected with the "New York World?"

A. Yes, sir.

Q. The "Morning" or the "Evening World"?

A. I am the business manager of the property.

Q. And that embraces the "Morning and Evening World"?

A. Yes, sir.

Q. What is your particular position?

A. Well, I am in charge of all the industrial affairs of the establishment.

Q. Have you any connection with the question of the circulation of those papers, and are you familiar with the method of circulating the "World"?

A. Yes.

Q. How long have you been connected with the "World" and familiar with the circulation of it?

A. Twenty-five years.

Q. Mr. Annenberg testified in this case that, with respect to the Chicago daily newspapers, and various

newspapers, at one time they had separate wholesalers and that they had, about 1906, combined upon one wholesaler in various sections of the country to handle all the papers. I want to ask you if that practice obtains in any way in the districts in which the "New York World" is distributed?

A. The newspapers have no such arrangement with each other.

MR. DALY: What newspapers are you speaking about?

THE WITNESS: The New York City newspapers.

By MR. WELCH:

Q. That is to say, the "New York World" has no arrangement with any other New York newspaper here for the handling, by any one man in any city, of the products of all of them?

A. No.

Q. In what manner, briefly, is the "New York World" distributed through the sections of the country that it circulates in?

A. Well, a great many copies go to the dealers direct. In a few instances we have special agents, but mainly through the American News Company and its branches.

Q. Now, with respect to these special agents, they are men under salary?

A. Under a salary and a commission.

Q. They handle the "New York World" and no other papers—is that correct?

A. I think in some instances they are allowed to handle other papers.

Q. There is no arrangement — general arrangement—covering special agents throughout the territory with any other paper?

A. No.

Q. Do you also distribute the "World" through any newspaper wholesalers in places where you have not special agents and do not use the American News Company?

A. I think there are several independent companies whose services we use outside of the American News Company.

Q. Do you know whether the 'Journal" and "Herald" and "Times" and other New York newspapers use different wholesalers, or center upon any one man?

A. I do not know that I could answer that with first-hand knowledge. My impression is that we all follow the same system.

Q. But you do not center upon any one man in any one town by reason of any arrangement?

A. No.

Q. What territory, generally, does the testimony that you have just given cover, as applied to the New York newspapers?

A. Of course, our range is from Portland, Maine, to Pittsburgh, south to Richmond—Washington and Richmond.

Q. As far west as Pittsburgh?

A. In quantities, yes.

Q. And as far north as Portland?

A. Yes, sir.

Q. And as far south as Richmond?

A. Yes, sir.

MR. DALY: I do not quite get the drift of this testimony. If it is for the purpose of making a comparison of the methods of distribution between newspapers and magazines, and to show that certain methods are efficient for that distribution, that is to say, for newspapers, I cannot see the relevancy of it in an inquiry like this, because the conditions are so absolutely different.

MR. WELCH: You have not proven any different conditions, Mr. Daly. It is proven in this case, as typical of the entire country, that in Chicago the various newspapers united on one man. Now, in New York, we want to show that they do not unite. If it is material to show in Chicago they do unite on one man, it is certainly material in New York to show that they do not.

MR. DALY: The point in our testimony, of course, was that the combined agency became the agency of the Curtis Publishing Company.

MR. WELCH: I presume that is so, although I do not know the object of introducing the testimony, precisely. You could very well argue, throughout the country, the newspapers had done that and that the Curtis Company had picked out the man the newspapers selected. I do not think there is any possible objection to his testimony, in view of the door Mr. Annenberg opened.

EXAMINER MOORE: He may answer the question.

MR. WELCH: There is no further question. I am through with Mr. Seitz, unless Mr. Daly has some questions.

CROSS-EXAMINATION.

By MR. DALY:

Q. You have no agreement with your agents not to handle other newspapers—is that what you testified to?

A. No, sir; I did not testify to that.

A. Have you?

A. We have a few men who represent the "World" exclusively—a very few, handling the evening edition.

Q. Generally speaking, they have the privilege of handling all newspapers—is not that correct?

A. Yes, sir.

Q. Now, do you know about the "New York Journal" in that respect?

A. The "New York Journal" has a very large number of special agents representing itself alone.

Q. As a matter of fact, the American News Company handles all the morning editions of the New York papers—is not that correct?

A. No; it does not handle all of them.

Q. What ones does it handle?

A. It does not handle all the territory of the morning New York papers.

Q. What territory does it not?

A. I am under the impression that Pittsburgh, Rochester and Buffalo are in the hands of an independent organization outside of the American News Company.

Q. Are those the only places?

A. I think in Hartford there are two organizations; that the Copperman Agency handles papers independently itself.

Q. Outside of that, the American News Company handles the rest?

A. It handles it as far as it is handled. As I think I said in the beginning, a large share of our distribution goes direct. It goes through the news company where it requires delivery to the newsstands.

Q. In New York City, how is it handled?

A. The morning edition goes through the News Company and its branches, and the evening edition is distributed through its own delivery.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. You find the service of the American News Company a very efficient service?

A. A very efficient service, yes.

MR. DALY: That is the question I objected to. However, let it go in.

C. C. ROBINSON, called as a witness in behalf of the respondent, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Robinson, where do you live?

A. New York City.

Q. What occupation are you engaged in?

A. I am secretary of the Boys' Division of the International Committee of the Y. M. C. A.

Q. How long have you been connected with the Y. M. C. A.?

A. Seventeen years—a little more than that.

Q. During that time, you have been familiar with its boy activities, have you?

A. Yes; I have been employed by the boys' department in some capacity for that time.

Q. Have you had your attention attracted in a general way to the activities of the Curtis Publishing Company in boy welfare work?

A. Yes.

Q. And in certain specific instances, have you cooperated with them?

A. Yes, sir; I have.

Q. With a view to establishing plans for the future, I understand; is that correct?

A. Yes; we have worked together on things of the moment and things that had to do with future plans.

Q. What specific things have you done with them?

A. The first thing that comes to my mind is a call at my office by Mr. Brodhead, of the Curtis Company, some years ago. I would not be able to say how long, at which time he took up with me the vocation plan of the Curtis Company with reference to boys.

MR. DALY: At the beginning of this hearing, Mr. Examiner, I made the objection to certain testimony, for the sake of the record, on the ground that if the Curtis Company had spent large sums of money building up their organization, and had developed a great system of boys, that that could not possibly be any defense in this case. Now, I am not sure that I covered the Y. M. C. A. end of it, and I want to make the same objection here.

EXAMINER MOORE: Objection overruled.

MR. DALY: It is understood that all of this Y. M. C. A. testimony is under objection.

THE WITNESS: Mr. Brodhead had heard about some plans for helping boys discover their vocational tendencies—some campaigns that I had conducted among our Y. M. C. A. boy members throughout the country. He came, as I remember it, to consult me, to find out how the Curtis Company with its boys could also carry out some of the plans that we had been carrying out among Y. M. C. A. boy members, and I think that was the bulk of that conversation, except that he took up with me problems that had to do with dealing with local Y. M. C. A. members throughout the country—matters of personality, how to deal with this man and that man and matters of general cooperation between the Young Men's Christian Association local branches and the Curtis Company. Then, either at that time, or shortly afterwards, he asked me if I would go and help him conduct among Curtis boys a vocational campaign, similar to what I conducted among Y. M. C. A. boy members, and I agreed to do so, if a date could be selected. I later did that with him at the City of Rochester.

By Mr. Milburn:

Q. Did you visit Rochester?

A. I visited Rochester, at Mr. Brodhead's request twice, at intervals of about a week apart, at which time I went about—oh, probably forty boys who were employed or who sell for the Curtis Publishing Company, and put up to them as I do to regular Y. M. C. A. boys the proposition of discovering, early in life, their vocational tendency. We gave to them that night a vocational blank which they made out, and later I went back with Mr. Brodhead, and with Mr. Fletcher, the Assistant Superintendent of Schools at that time, and two or three other men whom we got together. We examined these boys' blanks and made a study of their cases.

Q. Who did you meet there in charge of these boys, or who employed the boys?

A. Well, we of course co-operated with two men, the boy secretary of the local—the local boy secretary of the Y. M. C. A., and a—yes, sir; three men, the local agent of the Curtis Company, Mr. Lazarus, if I have the name rightly, and a Mr. Waner, who was a district agent up there at that time.

Q. Did you find Lazarus co-operating with your local superintendent there, with the schools?

A. Yes; of course that was all handled through Mr. Waner. When he wanted the boys, Mr. Lazarus produced the boys.

Q. You found him interested in the general problem?

A. Yes, sir. Then I met on our second visit, after the boys' papers had all been examined—they had a larger number of boys that night—I should say from sixty to seventy boys the second time, and we had twelve or fifteen men to interview the boys, sent from public schools and some business men, and I coached those men as to the methods of interviewing the boys and finding out their vocational tendencies. Under my

direction, they examined the blanks that these boys had made out by themselves—the list we had made of the blanks. Then we met the boys again and I gave the boys another address; and we had interviews with each of the individual boys. Then the interviewers turned back to us reports on those different boys, and our local secretary and Mr. Fletcher, the Assistant Superintendent of Schools, followed that up. In answer directly to your question, that was one of the things I have done.

Q. What was the date of that?

A. I am not absolutely certain of the date. I think it was in the spring of 1916.

Q. And that is the only direct personal contract you have had with the company?

A. No! in the fall of that same year, at Mr. Douglas' invitation, because of the interest I had taken in the Curtis boys, as I do in the boys of a great many industrial commercial companies, because that is my specific work under the National Committee, I attended a meeting of some kind of agents, I suppose seventy-five or eighty men, perhaps, who came from different parts of the country and was asked to give an address there, laying out the fundamentals under which the Boys' Division of the Young Men's Christian Association co-operates with commercial and industrial concerns, and I did so in an address to the agents at that time.

Q. Your work with the Y. M. C. A. takes you, as I understand, throughout the country? You travel all over the country?

A. Yes.

Q. And during the course of your travels, have you found evidence of widespread co-operation between the Curtis Company and your local branches?

A. Yes, sir; I have.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What is your name?

A. C. C. Robinson.

Q. Now, the purpose of this work that you do is to equip a boy for some particular vocation; is that correct, and guide him in the right path, so that he will be properly fitted for some vocation; is that correct?

A. The vocational end of my work is only a part of it.

Q. I am speaking of the vocational end.

A. Yes; certainly.

Q. You teach all of these boys salesmanship, don't you?

A. No; I would not say that.

Q. Do you teach them salesmanship?

A. We have clubs and classes of different kinds, and I suppose some boys—a good many boys, probably in a period of a year, take up salesmanship, but most of our salesmanship classes are taken up by what we call young men—fellows over twenty.

Q. Now, about the Curtis boys, they don't get that instruction then, do they?

A. The Curtis boys that come in contact with me, as I go about, are more in these clubs and groups and they are not necessarily members of the Y. M. C. A. They are boys who are employed by the Curtis Publishing Company, and we co-operate with them in what I would call welfare features for their future.

Q. But there are members of your organization that are Curtis boys in some instances?

A. Yes. There will be perhaps fifty or sixty Curtis boys in a town and a dozen or fifteen may be members of the Association. You understand that we don't limit our welfare and social service features to members of the Y. M. C. A.

Q. You do this same work for other organizations?

A. We are always willing to co-operate with any organization that wants to do a good thing by its boys.

Q. As a matter of fact, you are endeavoring or have made arrangements to do the same work with the Crowell Company, have you not?

A. I have not had any contract with the Crowell Company. If I remember rightly, the Crowell Company has done some work with us in connection with a trip which they wanted to put through to some exposition, or something of that sort, and I think quite a number of our branches co-operated with the Crowell Company at that time.

Q. And you do the same work for other boys as you do for these; is that correct?

A. I would not say that we do now; no.

Q. You do certain work for them? You are willing to do the same?

A. We are always willing to help all boys—if we find a company particularly interested in its boys, we are more likely to do work with that than we are with another company.

Q. And, of course, your work is of great benefit for a boy anyway?

A. We believe it to be so.

Q. Curtis boys and boys of other organizations?

A. Yes, sir.

Q. And makes them more efficient in their line of work of course, don't it?

A. We find it so, yes.

Q. Yes; that is my experience. Do you know anything about this million-dollar war fund that your organization has been endeavoring to secure?

A. Yes.

Q. Now, what work did you do with the Crowell

Company with reference to that—your organization, if you know?

A. I haven't any information on that.

Q. You don't know?

A. I don't know whether anything was done with them or not, and my end of that campaign was in visiting the schools and inducing the boys to sign up with their pledges. I had nothing to do with the follow-up of the campaign.

Q. How does your organiaztion then benefit the Curtis Publishing Company's organization?

A. I should say by giving them the advantages of the skilled leadership which we have among boys.

Q. That is always a great advantage in any line of work, is it not, for any organization?

A. Surely, that is what we exist for.

Q. That is what you live for, is it not?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You referred to an instance where you aided the Crowell Company in making a trip to the exposition. What were those circumstances?

A. I had nothing to do with that. It did not come under my jurisdiction at all. I know that there was some kind of a plan to take a lot of boys to one of the big expositions in the west, and our association cooperated by letting the agents come and talk to the boys and get them signed up to work for this proposed arrangement, which gave them the chance to go to this exposition. I merely knew of it as a hearsay matter. I had nothing to do with it personally.

Q. When was that?

A. Oh, I would not be able to say the date—a couple of years ago or something like that. I really don't know when it was. If I had had something to do with it I could give something accurate on it, but I didn't have anything to do with it.

MR. MILBURN: That is all.

(Witness excused.)

PATRICK J. KELLY, a witness heretofore duly sworn, was recalled for further

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, Mr. Kelly, in your testimony the other day I am not sure that I made it clear as to what towns in your territory there were where your agents handled other magazines, and had been handling them for some time past.

A. There are twelve.

Q. Will you give me those towns?

A. Stamford, South Norwalk, Danbury, Bridgeport, New Haven, Waterbury, Hartford, New Britain, Meriden, Providence, Newport, New London.

Q. Now, do these cities include all agencies for some time back—the cities that had your agencies for several years back, or are these recent?

A. No, these include cities in my territory as long as I have been in it.

Q. How long is that?

A. Three years this trip.

Q. Now, take Stamford. Your report shows that Jack Newman is your agent?

A. He is.

Q. He handles a number of newspapers, your group, "Literary Digest," Warner's group and "Motion Pictures." He is the leading man there, is he not?

A. We consider him the leading man, but he is not so considered by the other wholesalers.

Q. I am asking what you——

A. Well, as far as our company is concerned——

Q. He is the leading man, is he not?

A. For us he is. He is not the big man. In the other testimony you asked for the big man doing the volume of business. The other fellow is the Hearst agent and the big man in town.

By Mr. Milburn:

Q. What is his name?

A. Stamford News Company.

By Mr. Daly:

Q. You have on your report here for the Stamford News Company, the "Pictorial Review" was handled by him.

A. It was when I saw them.

Q. How did you get that information?

A. I asked Mr. Nelson, I think, one of the members of the firm. They have made two or three changes since I went into that territory, in the ownership of the Stamford News Company.

Q. As a matter of fact, they never did handle it.

A. He said he was.

Q. Who did you ask there?

A. One of the men behind the counter.

Q. What was his name?

A. I think it was Mr. Nelson.

Q. Don't you know who it was?

A. There were two members of the firm and they sold out, and one of them remained, and I don't know whether Nelson remained. It is a Jewish name. I forget his name, but I asked one of the members of the firm. There have been about six fellows been in there in the last two or three years. At the present time a

new man has come up from New York and bought one of the partners out.

Q. When did the Stamford News Company take on Crowell, do you know that?

A. Some time in the last six months or so. As I understand it, when young Abrahams gave it up.

Q. Who did you ask about that?

A. I asked the dealers from whom they got——

Q. Which one?

A. The various newsdealers there. I asked Abrahams, the former agent, who had it now, and he said the Stamford News Company had it.

Q. And Abrahams is one of the men, a member of the firm?

A. No, sir; Abrahams is a former agent of "Every Week." He is a newsboy in Stamford, or he was. I believe he has gone to the war now.

Q. Before the Stamford News Company was handling Crowell and "Pictorial" they handled the Hearst group; is not that correct?

A. The Hearst group and a lot of newspapers. They would wholesale to the small dealers in town.

Q. As a matter of fact, they never took on the "Pictorial Review" before they took on Crowell?

A. They will wholesale to any newsdealer there that buys the "New York World" or other paper any magazine they want.

Q. I am taking it from your report. You show they handle the Hearst group.

A. They are wholesale agents for the Hearst publications.

Q. Yes; you have on here that they handle Crowell and the Hearst publications?

A. They claim so themselves.

Q. This report is supposed to be correct from your standpoint?

A. If an agent tells me——

MR. DALY: Don't argue with me. Just answer the question. Mr. Examiner, this witness is arguing with me. I want him to answer the question.

THE EXAMINER: Just answer the question.

THE WITNESS: The Stamford News Company —one of the owners told me they were the agents for it.

Q. Do you know when Jack Newman took on the "Literary Digest"?

A. Some time during 1917.

Q. What is the population of that city?

A. Stamford, about 31,000.

Q. Your agent in New London is Fred Farr; that is correct?

A. Yes.

Q. And he handles "Collier's" and your group?

A. He does.

Q. How long has he been your agent?

A. He was appointed our agent several years before I went into the territory. I think he was appointed in 1912 or 1913.

Q. Do you know whether he was ever approached to handle the "Pictorial Review"?

A. I don't think he was. He told me he was not. Mr. Helphern there was given that agency, as I understand it, right off the bat.

Q. Now, "Pictorial Review" did not ask him to take on its agency, did it?

A. No.

Q. Mr. Helpern in that city is the leading wholesaler of magazines, is he not?

A. Yes, sir; he is.

Q. What is the size of that city?

A. Why, the population at the last census was about 20,000. It is over 30,000 now with the sailors that are there.

Q. In Danbury, Mr. Cuff is the "Pictorial Review" agent. Do you know when he took that on?

A. Why, he took it on to supply all of the dealers there, when they broke up the agency.

Q. Do you know whether "Pictorial" tried to get your man, Mr. Canfield?

A. No; didn't try.

Q. Mr. Canfield handles your group, "Literary Digest," "Motion Pictures" and the Warner group?

A. He does.

Q. Do you know when he took on the "Literary Digest"?

A. In 1917.

Q. Mr. Stetsel handles "Every Week" there, does he not?

A. So he told me.

Q. And the Crowell magazines. Do you know how long he has handled them?

A. Sometime within the last year.

Q. And "Collier's." When did he put that on, do you know?

A. Well, I believe he has had "Collier's" on for a year or more.

Q. What is the population of that city?

A. Danbury; somewhere around 20,000, I should think.

Q. Now, in South Norwalk, Connecticut, you have Mr. Fred B. Coleman, have you not?

A. Yes, sir.

Q. He handles several newspapers. He handles the Hearst group and your group, does he not? That is correct?

A. Yes, sir.

Q. What else does he do there?

A. He is a news dealer, stationer, candy and cigar store.

Q. Now, Mr. Benedict, the other agent in that city

handles "Pictorial Review" and "Every Week," according to your report. Do you know when he took on "Pictorial Review"?

A. Some time last year, I understand.

Q. Do you know whether the "Pictorial Review" asked Coleman to handle it?

A. I believe they did.

Q. And he objected, didn't he? I think that was your testimony the other day, was it not?

A. He said he could not handle it.

Q. He was too busy, was he not?

A. No; Mr. Coleman—I don't think Mr. Coleman knew about his contract. If I am not mistaken, he told them to get Benedict.

Q. What did Benedict do there?

A. He is a news dealer also.

Q. He sold what newspapers?

A. He was not a wholesale news dealer prior to taking on "Pictorial." He was a retail dealer.

Q. And Coleman was the only man there that handled magazines, at that time?

A. Yes, sir.

Q. Do you know the population of South Norwalk?

A. Twenty-four thousand, I believe it is.

Q. Do you know whether the Crowell Company had to change from Coleman to Benedict, or not, on account of the objection?

A. If they did Mr. Coleman did not tell me about it. I did not know he was handling it. I didn't know he changed. If he did, he did it of his own free will, violating his contract.

Q. If you don't know anything about it, don't say so.

A. I say I don't know he ever handled it. If he did, he handled it in between my trips.

Q. In Providence, we have gone over that. Mr. Silverstein is the big wholesaler?

A. He is.

Q. He handles your group, Hearst group, Munsey group, "Literary Digest" and "Motion Picture." Now, do you know when he took on "Literary Digest"?

A. In 1917, when they first made the change.

Q. Do you know when he took on "Motion Pictures"?

A. The first issue that went direct, I believe it was the February issue of this year.

Q. Now, you have on here, Mr. Petersen, the agent for "Pictorial Review"?

A. He was when I made that report. He is not now.

Q. What did he do at that time?

A. He worked for the "Providence Journal."

Q. When was that?

A. In 1917.

Q. Is that when "Pictorial" broke, or about that time?

A. They broke away on the May issue, April 6, 1917.

Q. "Pictorial Review" tried to get Silverstein, I think you testified?

A. They did.

Q. He was the only wholesaler there at that time?

A. Outside of the Rhode Island News Company.

Q. Which is the American News Company?

A. Yes, sir.

Q. What is the size of that city?

A. Somewhere around 260,000.

Q. Take Bridgeport—your agent was Mr. Schneider?

A. Yes, sir.

Q. He handled, according to your report, your magazines, and all shown on the data sheet. What is that data?

A. He handles the Curtis magazines, "Hearst's,"

"Munsey," "Motion Pictures," Warner publications, "Jim Jam Jems," and "Pearson's."

Q. Now, what was the data sheet—you sent in another sheet?

A. I sent in those, giving the list of magazines held by him.

Q. In that city, Mr. Leo J. McGrath handles "Pictorial Review"?

A. Yes, sir.

Q. What was he before he took it on?

A. A news dealer.

Q. Was this man a retailer?

A. He was.

Q. He did not take on "Pictorial"?

A. He did not.

Q. So, then, Schneider was the only wholesaler there, except the Bridgeport News Company?

A. The only magazine wholesaler; yes, sir.

Q. What is the size of that city?

A. About 140,000, I believe.

Q. Now, then, take New Britain; in that city you have Mrs. E. A. Chatfield. I think there has been testimony about that in this case, that she handles your group and the Hearst group and Morehill handles "Motion Picture," "Pictorial" and Warner group. Do you know when he took on the Warner group?

A. Some time last year, during the winter, when they went direct.

Q. And "Motion Pictures" was put on when they went direct?

A. February of this year, I believe.

Q. And so was the "Review," was it not?

A. Yes, sir.

Q. So, prior to that time——

A. He took the "Pictorial" over from another agent.

Q. Prior to that time Mrs. Chatfield was really the only wholesaler there?

A. Magazine wholesaler, yes.

Q. She was asked to handle the "Pictorial Review" and was not permitted to do so—is not that correct?

A. She did not handle it; I do not know whether she asked permission or not.

Q. I think that testimony is in the record.

A. Her manager testified to that.

Q. What is the population of that city?

A. About 50,000.

Q. In Meriden, your agent is Malloy. We have talked about him, but I am not sure we got in what he handled. He handles your group, the Hearst group, "Motion Pictures," the Warner group and "Collier's." Lange handles "Every Week" and the Crowell group. "Every Week" is a part of the Crowell group, is it not?

A. Yes, sir.

Q. Do you know when Lange began to handle "Every Week"?

A. I believe about the first of the year, when the contract they had with the Boston——

Q. When they broke away, was it not?

A. Yes, sir.

Q. That is the first of this year?

A. Yes, sir.

Q. Prior to that time Mr. Malloy was the only wholesaler of magazines there?

A. He was.

Q. He took on "Motion Pictures," since they went direct?

A. Yes, sir.

Q. Do you know how long he has handled "Collier's"?

A. For several years.

Q. And the Warner group—that is another independent group, is it not?

A. Yes, sir.

Q. Do you know whether or not the "Pictorial Review" wanted Mr. Malloy to handle their publications?

A. I presume they did.

Q. Well, if they did——

A. They gave him the agency.

Q. What happened to it?

A. He gave it up.

Q. Why?

A. Because it was a violation of his contract with the Curtis Publishing Company, I presume.

Q. He was the only agent at that time?

A. When he gave it up he was not the only agent.

Q. Who was the other agent?

A. Crowell had an agent when he gave it up.

Q. That was Lange?

A. Yes, sir.

Q. At the time that the "Pictorial" got Malloy he was the only agent there, was he not?

A. When?

Q. When "Pictorial" got Malloy to handle their papers?

A. When they got him to handle it; yes.

Q. That is the point. What is the population?

A. 30,000.

Q. Now, at Waterbury, your agent was H. Baumgarten?

A. He is.

Q. He handles your group, "Hearst's," "Munsey" and "Motion Pictures"?

A. Yes, sir.

Q. In that city you said that the News Company branch had discontinued—that the delivery there was discontinued?

A. No; we sent a man there and he opened up a temporary headquarters and made deliveries by automobile to the dealers, but they discontinued it because it was unprofitable.

Q. When did they do that?

A. Some time in 1917.

Q. Devereaux handled a number of magazines, Crowell, "Pictorial," Hearst group, and the Munsey group—do you know how long he handled the Crowell group?

A. Both since they broke away.

Q. He had the Hearst group and the Munsey group for some time?

A. Yes, sir.

Q. They both handled the Munsey group?

A. Yes; it is split.

Q. Do you know whether the "Pictorial Review" tried to get Tom Martin?

A. I do not believe they did; they went direct to Mr. Devereaux.

Q. What is the population of that city?

A. About 50,000.

Q. In New Haven, Sinclair and Morris are your agents?

A. Yes, sir.

Q. They handle several groups?

A. Yes, sir; they do.

Q. They succeeded somebody there, did they not?

A. Yes, sir; Mr. Koppelman.

Q. And he handled about the same magazines?

A. Yes, sir; he did not handle all of them, because some went direct to Sinclair and Morris took the agency.

Q. When did they change?

A. Last October.

Q. In that city, Mr. Abe Grabzinski is the wholesaler?

A. Yes, sir.

Q. What does he do?

A. He wholesales the "New Haven Register," and the "New Haven Union"—my report shows the list.

Q. Mr. Fred Turner is there?

A. He is a jobber.

Q. How does he deliver his magazines?

A. He covers one section of the city.

Q. To whom does he deliver?

A. Boys and dealers.

Q. He sells magazines that way, does he?

A. Yes, sir.

Q. This man Turner buys them off of the wholesaler in that city, does he not?

A. Yes, sir; our report shows that. It states that he buys from the news company and resells to retailers.

Q. He buys from the news company and sells at a profit?

A. Yes, sir.

Q. As a matter of fact the "Pictorial Review" tried to get Koppelman to handle their paper?

A. Yes, sir.

Q. What happened about that?

A. Mr. Koppelman turned it down.

Q. Why—do you know?

A. The first time he turned it down on account of the boy proposition. He did not like it.

Q. What did he do the next time?

A. The next time I believe he wrote to the Curtis Publishing Company—so he told me.

Q. When was that?

A. In February, March or April, of 1917.

Q. Then, at that time, at the time he turned it down, Koppelman was the big wholesaler, was he not?

A. Outside of the Connecticut News Company.

Q. That is the American News Company, you mean?

A. Yes, sir.

Q. What is the size of that town?

A. About 150,000.

Q. In Newport your agent is Mr. Clark?

A. Yes, sir.

Q. He handles your group, the Hearst group, "Motion Pictures," the Warner group, "Collier's" and all magazines—does that mean he handles "Pictorial Review"?

A. Yes, sir.

Q. Are you going to permit him to continue to do that?

A. I am not.

Q. He is the only man there?

A. The only man in the wholesale business.

Q. How long have you known that he handled the "Pictorial Review"?

A. About a year.

Q. And "Every Week"?

A. He has handled that about since the first of the year.

Q. You have known that?

A. Yes, sir.

Q. What work have you done in finding a satisfactory man to take the agency?

A. I have not done any, but I know a man who wants the agency if we decide to make a change.

A. You said that you were going to make a change?

A. It may be possible that Mr. Clark will not want to handle those later on.

Q. Did you ever object to Mr. Clark handling that magazine—did you tell Mr. Clark that?

A. No; I have not spoken to Mr. Clark.

Q. Nor anyone?

A. He has received form letters, I believe.

Q. And he objects to handling "Pictorial Review"?

A. He got the usual form letter notice, I believe.

Q. Did you ever talk to him about it?

A. No, sir.

Q. To any of them?

A. No.

Q. How big is Newport?

A. About 30,000.

Q. Now, in Pawtucket, C. Luther & Company are your agents and do not handle anything else?

A. In the magazine line; yes, sir.

Q. Do you know whether the "Pictorial Review" ever asked him to handle their paper?

A. He told me they did.

Q. And, of course, he did not take them on, did he?

A. He said he did not care for them.

Q. He was under contract. Now, Maurice Espo is a large wholesaler there?

A. Yes, sir.

Q. He handles the Hearst group, the "Pictorial" and other magazines?

A. Yes, sir.

Q. How long has Luther been your agent?

A. 1911 or 1912.

Q. Who told you that the "Pictorial" went to Luther?

A. I think he told me they offered the proposition to him. I am not sure, but I think they did. I am not sure about that. He has been offered so many different agencies there that——

Q. I know, but confine it to "Pictorial Review"—you are not sure they went to him?

A. No, sir; I was not interested, in view of the fact he did not take it.

Q. Espo is the big man there?

A. Yes, sir.

Q. And "Pictorial" went to him in that case?

A. They were sent out to him.

Q. Who sent them out to him?

A. I believe Mr. Silverstein, of Providence, did.

Q. There was no necessity of their going to Luther, then?

A. They did not go to him, as I recall it now. My understanding when you asked the question was I thought he was offered the general agency of the "Pictorial." I think it was the Crowell people that wanted him to take their paper up.

Q. What is the size of that town?

A. About 60,000.

Q. How do you know the Crowell people saw him?

A. He told me they saw him. I was there about the time one of the Crowell men was there. He told me they were down there several times trying to get him.

Q. Did he tell you which representative saw him?

A. No, sir; he did not. I think it is Tucker, of Providence—a little short fellow from Providence; he is out of the Providence office. I met him in two or three towns; I forget his name.

Q. Your agent at Hartford is Koppelman, is he not?

A. Yes, sir.

Q. And besides yours, he handles the Hearst group, "Literary Digest," "Munsey," and so forth. "Literary Digest" has been taken on recently, has it not?

A. Last year.

Q. What is this Aetna News Company?

A. A new concern there controlled, as I understand it, by the circulation manager of the "Hartford Times."

Q. How long has that been there?

A. Some time in 1917.

Q. Now, Koppleman was approached by the Pictorial Review Company to take their magazine?

A. So he claims.

Q. And he did not take them on because of the contract—is that correct?

A. That is my understanding.

Q. At the time he was approached, was the Aetna News Company there?

A. Not as a newspaper; the men who were controlling it had been with the "Hartford Times" in the circulation department.

Q. There was no magazine distributor there at that time?

A. Two—the branch of the Hartford News Company and T. F. Kelleher.

Q. I mean a regular wholesale dealer.

A. Mr. Kelleher was there.

Q. What did Kelleher sell then?

A. He had been wholesaling all magazines for a number of years.

Q. This note is about Kelleher? (Indicating.)

A. Yes, sir.

Q. He whoelsales newspapers and magazines. Where does he get his magazines?

A. From the Hartford News Company and Mr. Koppleman.

Q. That is a branch of the American News Company?

A. Yes, sir.

Q. And from Mr. Koppleman?

A. Yes, sir. And sells them at a profit. He supplies some dealers, and a great many boys.

Q. Koppleman is the man, however, who was receiving them direct from the publisher at that time—is that correct?

A. Yes, sir; outside of the News Company.

Q. Now, how big a town is this?

A. A little over 100,000—110,000, I think.

Q. Now, there were thirteen cities, it seems, instead of twelve, so that would cut down by one the other——

A. I only named twelve.

Q. You were examined on thirteen. Have you Woonsocket in your report?

A. Yes, I counted them wrong. Pawtucket and Woonsocket, Rhode Island towns, were not in there.

Q. In what towns have you made changes in your agents since 1917?

A. In what towns have I appointed agents?

Q. Yes.

A. Several.

Q. Name those towns.

A. New Haven, South Manchester, Wallingford—I think I made a change in 1917 in Putnam. I believe it was in 1917.

Q. Would you let us have the reports on those towns?

A. Those were ordinary transfers.

Q. What was the occasion for those transfers?

A. Either death or getting out of the business.

Q. Did I ask you the other day whether or not you put your agents under the new contracts, in most instances?

A. I do not remember, but I put them all under except one.

Q. Which one was that?

A. Newport.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Kelly, you were asked some questions with reference to Stamford. Our agent there is Jack Newman, is he not?

A. Yes, sir.

Q. Are there other newspaper wholesalers there?

A. Yes, sir; there are at least one or two others besides him.

Q. What are the newspaper wholesalers?

A. Well, the Stamford News Company and Abraham, who handles the "New York Telegram."

Q. Will you give us the list of New York papers wholesaled by the Stamford News Company?

A. The "North American," the "World," the "Sun," "Herald" and "Tribune."

Q. What does Abraham handle?

A. The "Telegram."

Q. What does the third man wholesale?

A. The "New York Journal," "New York Times," the "Evening New York Mail," "Globe" and "Sun," and also the "Bridgeport Herald." I understand he is not wholesaling the "New York Evening Mail," "Globe" and "Sun"; that they have separate agents. That was true at the time I made the report, however.

Q. Did they go to one of the other agents, or did they establish new agents?

A. They have established new agents.

Q. And in New London who wholesales the newspapers there?

A. Mr. Halpern and one of the New York papers, I believe, is wholesaled by Mr. Larkin.

Q. I show you your report. Is that the "New York World"? (Indicating.)

A. Yes, sir; Mr. Larkin—I knew he handled one of them.

Q. In Danbury, who handles the newspapers there?

A. Mr. Cuff is the big wholesaler there, handling the "New York Sunday Times" and "American" and "New York World."

Q. Any others?

A. Mr. Canfield has the "New York Journal," and Mr. Stelzel had the "New York Evening Globe" and "Mail."

Q. South Norwalk—does our district agent there handle some of the New York papers?

A. Yes, sir; he handles most of them. Brigham & Brothers, I understand, wholesale the "New York World."

Q. And in Providence, how many newspaper wholesalers are there?

A. There are several in the city of Providence, the Rhode Island News Company wholesales all the New York papers; also all the Boston papers, except the "Boston American." Mr. Silverstein wholesales the "Boston American," "Boston Post," "Providence Tribune" and "New York Evening Telegram," and a Mr. Flynn wholesales all the Sunday papers; Mr. Gormley all the Sunday papers, and Mr. Shawcross also all the Sunday papers.

Q. How many newspaper wholesalers are there in Bridgeport?

A. In Bridgeport there are seven; the Bridgeport News wholesales the "New York World," the "New York American" and all out-of-town papers.

Q. And what are the others?

A. Paul Bayer wholesales the "New York Evening Telegram"; T. Lucia wholesales the "New York Evening Sun"; Tony Fucello wholesales the "New York Evening Globe"; Paul Chearillio wholesales the "New York Evening Mail"; Levi S. Cobb wholesales

the "Bridgeport Post," a local paper, and Walter Schneider the "New York Evening Journal" and the "Bridgeport Herald."

Q. How many newspaper wholesalers are there in Meriden?

A. Four; August Lange wholesales the "New York Evening World"; John Hack is a Sunday wholesaler of the "New York Times," "World" and "Tribune"; Ormstead & Schmelzer are Sunday wholesalers of the "New York Times," "World," "Tribune" and "Herald," and J. F. Malloy the "New York American" and "Journal."

Q. How many are there in Waterbury—just give the number.

A. Five.

Q. Do they all wholesale different papers?

A. They wholesale the New York, Connecticut and Boston papers.

Q. In New Haven, how many are there?

A. Seven.

Q. Do they wholesale different papers?

A. Yes, sir.

Q. What is the situation, with reference to Clark, of Newport—did you say you were going to make a change there?

A. I am going back and look the situation over and appoint a new agent if necessary; if he is still violating his contract.

Q. You have not gotten around to it?

A. No, sir.

Q. Have you made any effort to get a man?

A. No; I know a man who would like the agency, though, if we are to make a change.

Q. Have you ever had any trouble in getting agents?

A. No, sir.

Q. You never had to offer any bonuses in order to get them?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How many changes did you make?

A. In what period of time?

Q. In 1917?

A. Oh, four, I think I told you.

Q. When were they made?

A. All during the year—various times, whenever the occasion arose.

Q. Did you not have instructions not to change, or was it because someone died?

A. There are times when you have to make a change, when a man dies or goes to the war and leaves the agency open—we have to get a new agent then.

Q. These four changes were made why?

A. Because of deaths, getting out of the business or going to war.

MR. DALY: That is all.

FURTHER RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Was there a period during the past year when you ceased to make changes because of taking on the "Pictorial Review"?

A. Yes, sir.

Q. You did change them afterwards?

A. Yes, sir.

Q. Those were made under instructions from the home office?

A. Yes, sir.

MR. MILBURN: That is all.

EXAMINER MOORE: We will take a recess until 2.30 P. M.

(Whereupon, at 1.20 o'clock P. M., a recess was taken until 2.30 o'clock P. M. of the same day.)

AFTER RECESS.

PATRICK J. KELLY resumed the stand.

RE-DIRECT EXAMINATION (Continued).

By MR. MILBURN:

Q. Mr. Kelly, you testified before that you had been informed by a member of the firm of the Stamford News Company that they wholesaled "Pictorial": is that correct?

A. Yes, sir; that is correct.

Q. Have you, during the luncheon period verified that information and made further inquiry?

A. I called up the Stamford News Company at noontime, during the luncheon period, and I was talking to Mr. Esteroff, a member of the firm. I asked him if he was the wholesale agent for the "Pictorial Review." He said he was not. I asked him if he had one in town? He said no, they had none, since Mr. Abrahams had discontinued. I said, "Don't you wholesale the 'Pictorial Review'?" He said, "We do, to several dealers." I said, "Where do you get your supplies?" He said, "We get them direct." He also said he had an application in for the agency and that they have not acted on it.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Do you know what the Stamford News Company pays for the "Pictorial Review"?

A. I did not ask him for the price. I asked him how he got them. He said direct, and sold them to several dealers in town.

Q. Does he get them of a retailer or a wholesaler?

A. I did not ask him how he got them. He said he got them direct and he wholesaled them to several

dealers there. He said they were a big wholesaling town and they would be glad to take any agency; they had an application in for the "Pictorial Review" agency, since Abrahams discontinued.

(Witness excused.)

R. L. FLANDERS, called as a witness on behalf of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Flanders, where do you live?

A. Boston, Massachusetts.

Q. What is your occupation?

A. I am employed by the Curtis Publishing Company as manager of the New England district, in charge of sales, and promotion work.

Q. As I understand, that district is done under—the business is carried on under the name of the Curtis Publishing Company of Massachusetts.

A. Curtis Publishing Company of Massachusetts, yes, sir.

Q. But that is a branch of the main company?

A. Merely a branch of the main company.

Q. How long have you been with the Curtis people?

A. Nine years.

Q. In that territory all the time?

A. No; I traveled on the road for the Curtis Publishing Company for a number of years, appointing sales agents.

Q. In what period was that?

A. Well, back in 1909, 1910, 1911 and the early part of 1912.

Q. When you began in 1909, what did you carry?

A. At the time I started with the Curtis Publish-

ing Company they had but one publication to offer their agents.

Q. What was that?

A. That was "The Saturday Evening Post."

Q. You mean by that that the other papers——

A. Well, we didn't have "The Country Gentleman" at that time, and "The Ladies' Home Journal" —the sales edition was sold exclusively through the American News Company.

Q. And throughout the district you covered then did you appoint agents for the sale of the "Post"?

A. Yes, sir; I appointed a good many hundreds of agents for the Curtis Publishing Company, for "The Saturday Evening Post" alone.

Q. And you were able, handling that single publication, to get agents, were you?

A. I had no trouble getting agents, no.

Q. It has been mentioned several times in the record, Mr. Flanders, that agents, acting under instructions from the home office, discontinued changing agents for a period of time. Are you familiar with that situation? I ask you just yes or no.

A. Yes, sir; somewhat.

Q. You handle the Massachusetts end of the business, do you not?

A. Yes; the business in Maine, New Hampshire, Vermont and Massachusetts.

Q. And was there a period of time when your men ceased their efforts in changing the agents for handling "Pictorials"?

A. There was a period of time when our men were absolutely instructed not to make any changes in agencies because of the fact that our district agents were all selling "Pictorial Review," and furthermore, not to talk about the subject, or to discuss it with any district agent.

Q. Do you remember when that was, roughly?

A. Why, that was somewhere between—I believe it was somewhere in April, 1917, that such notification was sent to our men.

Q. And then later on the instructions were sent out to change?

A. Some time later, instructions were then given to our men to go ahead and make changes wherever we told them to make the changes.

Q. So your agents have been acting under different instructions at different periods?

A. Under different instructions at different periods; exactly.

Q. When did you get your final instructions on the change, do you remember?

A. I believe that was late in the summer or early in the fall, some time in 1917.

Q. How many agencies are under your supervision?

A. One hundred and thirty-five.

Q. Have you superintended the change of agents in a good many instances?

A. I have made a number of changes personally, and in a general way superintended all changes that that were made in that territory.

Q. In making these changes, in how many instances, if any, has a bonus been granted to an agent?

A. We have just a few cases in the territory where a bonus has been granted.

Q. In all the other cases have you gone on the straight contractual relationship?

A. Straight contractual relationship.

Q. What was the reason for those few cases?

A. The reasons, principally, for making an offer of that kind is because of opposition to which might be termed unfair competition by the——

MR. DALY: Now, wait.

MR. MILBURN: I will consent that that be stricken out. Do not characterize.

THE WITNESS: Caused by the outgoing agents.

By MR. MILBURN:

Q. It was the outgoing agent would sell your publications?

A. The outgoing agents in a number of instances have purchased copies of our publications from an indirect source, used those copies to embarrass the incoming agents and make his path generally hard for him. In some instances this particular outgoing agent would control the agencies for certain newspapers, and in certain instances other magazines, that he would use a club, so to speak, upon the dealers in the town, by threatening them if they did not buy the Curtis publications from him, he would cut them off from their other newspapers and magazines. Therefore, in many instances, these dealers were obliged to continue with the outgoing agent, against their own will.

Q. You say in many instances, but it only happened, according to your testimony, in two instances, where you had to help your agents by a guarantee.

A. In only two instances I would have to help our agents out, in order to make it profitable for them.

Q. In other instances, have you had to aid them by special efforts?

A. Special efforts, special promotive plans on the part of our superintendent.

Q. There are one or two things in the record that we have gone through, that I want to take up with you. Henry Mishara, who was called in Boston, testified to a conversation held with you, and denied that you gave as a reason for his removal of the agency from him the fact that he had made premature deliveries, and the fact you were generally dissatisfied with his

services. Did you have a conversation or conversations with Mishara?

A. I had a conversation with Mishara and told him I was generally dissatisfied with his method of conducting our business. He sold prematurely; he sold copies——

Q. Did you tell him that?

A. Exactly that.

Q. That is all right. You took the agency away from him?

A. I took the agency away from Mishara.

Q. Did he also take on "Pictorial," do you know?

A. Yes, sir; that was one of the instances.

Q. That was an added reason?

A. That was an added reason; yes, sir.

Q. How did you replace Mishara; what did you do?

A. I appointed eighteen agents in his place. Mishara covered the suburban section of Boston. That is part of the wards of the city of Boston, the outlying wards, and some of the suburban—a few of the small suburban towns adjacent to Boston.

Q. How long did it take you to place the eighteen agents?

A. Mr. Lynne and I made the arrangements, and we placed the eighteen agents in one week.

Q. What class of people were they?

A. Fourteen of them were high school boys and one was a woman that conducted a variety store, one of them was a retail news dealer, and the other was connected in some way with the Charlestown Navy Yard—one of the officers of the Charlestown Navy Yard.

Q. And they delivered your magazine both to dealers and boys?

A. Both to dealers and boys in the territory formerly conducted by Mishara.

Q. In selecting them did you pay special attention to any equipment they may have or might have for the wholesale magazine business?

A. There isn't any of them that have any equipment at all.

Q. How do they deliver?

A. The only equipment they have is bicycles. Some of the boys have bicycles; deliver their copies under their arms or on their bicycles.

Q. Mr. Clay, when testifying about the situation in Lawrence, or Manchester, rather, where I believe Mr. Friedman was at one time the agent, testified you had had charge, and that his information wasn't accurate about that. Will you clear up the Manchester situation?

A. I made the transfer in Manchester.

Q. Who had been our agent?

A. Katze and Friedman formerly, and subsequently Charles Friedman took over the business in his own name. It was continued right along, with the exception of the change in the management from the partners to the one mentioned.

Q. Why did you change Friedman?

A. Friedman was unsatisfactory in many respects. the principal of which was his place of business. He had a very undesirable place of business. It was complained about by some of the parents of our P. J. boys, and also by the Boys' Work secretary of the Y. M. C. A.

Q. Did he handle "Pictorial," at all, do you know?

A. He did handle "Pictorial."

Q. That was another reason, then, that you gave the boy business to whom?

A. Alan Southard, a high school boy of Manchester.

Q. Does he handle anything else?

A. No; he does nothing else. He is paying his way through school with his profits from Curtis agency.

Q. You gave the dealer business to whom?

A. At that time it was taken away from Friedman, it was given to the City News Agency, William Zelinsky.

Q. Was there a subsequent change?

A. A subsequent change, but Mr. Zelinsky wholesaled "Pictorial Review."

Q. Then you appointed whom?

A. Black Brothers.

Q. What do they handle?

A. Black Brothers, at the time they were appointed agents for our publications, were handling nothing but the "Boston American." Subsequently they took on the Hearst publications.

Q. They still operate there as a wholesaler?

A. As a wholesaler.

Q. Is the City News Company there in business?

A. The City News Company is still in business, wholesaling both magazines and newspapers.

Q. Have they got anything to do with the American News Company?

A. No connection whatsoever.

Q. A local concern?

A. A local concern.

Q. Southard is there with just the boys?

A. Yes, sir.

Q. Is Friedman still there?

A. Friedman left town, I believe.

Q. Clay later referred to the firm of Katze & Friedman.

A. In Lawrence?

Q. In Lawrence, Massachusetts?

A. That is the same concern referred to previously of Manchester, New Hampshire. Katze & Friedman

were doing business under joint partnership in the city of Lawrence, and they were at one time agent for our publications.

Q. You discontinued them?

A. We discontinued them.

Q. Who did you appoint?

A. Morris Salatra, who was circulation manager of the "Lawrence Sun and American." He handled our publications there for quite some time as our district agent, and then he removed from the city, and at that time Black Brothers were appointed as our agents in Lawrenee.

Q. They are now your agents?

A. They are now our agents.

Q. In both Manchester and Lawrence; is that correct?

A. Yes; one brother is in Lawrence and the other brother is in Manchester.

Q. Mr. Clay testified also that you had general charge of the transfer of the agency from Mr. O. C. Bean to Mr. Emple. In what way was that? In what town was that—in Bangor?

A. Bangor, Maine.

Q. What was that situation?

A. Well, I don't believe that Mr. Clay testified to that. I believe that——

Q. You said you were familiar with it.

A. There was some discussion about the Bangor situation, as to the number of wholesalers in the town, how long they had been there, and such like, and Emple was appointed as a successor to O. C. Bean. O. C. Bean has been in business in Bangor for more than ten years, wholesaling newspapers and magazines.

Q. Is he still there?

A. He is still there, and our agency was taken from him, several years ago, because he did not devote

the proper amount of time and effort to develop our business as it should have been developed, and Emple was employed.

Q. Has Bean the largest business there?

A. Bean has what might be termed the largest business there in papers and magazines.

Q. Does he represent more publishing houses than Emple?

A. Well, his volume of business is greater than Emple's volume of business.

Q. And Emple is still your agent there?

A. Emple is still our agent.

Q. Reference was made in the testimony, I think by Mr. Lynne, to the situation at Holyoke also. Mr. Ashe is the agent there, is he?

A. Mr. Thomas Ashe. I made that appointment there. I think Mr. Daly asked about Trowbridge. Trowbridge was our district agent in Holyoke. He succeeded a man by the name of Turner.

Q. What did Trowbridge handle?

A. Trowbridge handled the—Trowbridge ran a variety store and handled nothing in a wholesale way, up till the time of his appointment as Curtis district agent. He received a circular, I believe, from the Pictorial Review Company and wrote me, asking if it was all right to take on "Pictorial Review," and I replied to the contrary—negative. Subsequently, I called on Mr. Trowbridge and found that he had taken on "Pictorial Review," so I personally transferred the agency from Mr. Trowbridge to Mr. Thomas Ashe. Mr. Ashe at that time was a wholesaler in the city of Springfield for the Hearst publications—no, not for the Hearst publications, for the Munsey publications, and a number of small publications; also for the "Pictorial Review."

Q. He lived at Springfield?

A. He lived at Springfield, but he had a place of business in the city of Holyoke, and it was my understanding, from my conversation with Mr. Ashe, that his brother—he has two brothers. One of his brothers handles the Holyoke end of the business for him. The two businesses are absolutely separate.

Q. You gave him that business for Holyoke?

A. At the same time, Mr. Ashe in his conversation with me—at the time he was appointed Mr. Ashe said, "Well, of course, I understand there has been some controversy with the 'Pictorial Review.' I am representing them in the city of Springfield and I want you to know that," but he said, "Of course, I want you to understand also that I will not represent them under any circumstances in the city of Holyoke, since I am signing the Curtis contract, and I believe it is not your wishes that I handle it."

Q. Anyway, you appointed him, and that was satisfactory to you?

A. Satisfactory to us, yes.

Q. Mr. Lynne also testified that you were familiar with the Boland situation in Worcester, Massachusetts.

A. Yes.

Q. I think he referred—he testified that he referred Mr. Boland to the branch office, which was you, was it not?

A. Yes, sir; Mr. Boland was one of a number of gentlemen who attended a meeting in Boston, a year ago last March. and there were a few gentlemen decided they were going to ignore their obligations to the Curtis Publishing Company and take on "Pictorial Review." Mr. Boland was one of the few that took on the "Pictorial Review," and subsequently gave it up.

Q. Is he your agent now?

A. He is our agent now.

Q. And he was asked to handle "Pictorial" and did handle it?

A. Yes; Mr. Boland made an affidavit to me that Mr. Mackinnon called Boland into the Parker House in Boston, and offered him the agency for "Pictorial Review." Boland stated at that time that he did not care to take it, because it would be in violation of his contract with us, and he said he would be perfectly willing to take it if Mr. Flanders would consent. Mr. Mackinnon said—I am giving Boland's statement on this—Mackinnon is alleged to have said to him: "There is no need asking Flanders, because I know he won't consent, but if you will throw the Curtis business down, I will pay you a salary equivalent to the Curtis profit."

By Mr. Daly:

Q. Is that what he told you?

A. I have his affidavit to that effect.

Q. That is what he told you?

A. That is what he told me.

By Mr. Milburn:

Q. Other than that, you know nothing about it?

A. No.

Q. Mr. Lynne further testified that you were familiar with the situation where Bates & Holdsworth were your agents—in what town is that?

A. Framingham. J. F. Eber was our agent for a good many years in Framingham. Mr. Eber died a year ago last December, but the business ran along in his name. Two young men who were his employees finally took over the business—Bates & Holdsworth—and it is continuing along with them now. Mr. Holdsworth attended this meeting, and he was one of the men appointed on the beefsteak committee, a committee so called from the fact that Mr. Mackinnon agreed

to stake them to a dinner if they got busy and started something for the Pictorial Review Company.

MR. DALY: Mr. Holdsworth said that?

THE WITNESS: Yes, sir; Mr. Holdsworth had taken on the "Pictorial Review." I sent Mr. Lynne into Birmingham to appoint Mr. Holdsworth's successor. He called on just one prospect and I was obliged to call Lynne off of that assignment before he finished, to put him on some special work, and in the meantime Mr. Holdsworth came in to see me. He said, "I understand you are going to appoint another agent in Framingham." I said, "I have no doubt that your understanding is right." In a conversation in my office Mr. Holdsworth told me that he realized he had been made the goat by a certain crowd that were supposed to be working for his interests, but in reality subsequently he had become convinced he was coming out on the short end of the deal. He therefore said, "If it is agreeable to you, I will discontinue the wholesaling of 'Pictorial Review,' if you will give me your promise I will be continued as the Curtis agent."

Q. Did you keep him?

A. I stated, on account of Mr. Lynne's being on special work that he probably would not be back in that territory for some time, and if, in the meantime, the situation cleared up before Lynne got back, we might forget he had displeased us, and that was what happened. They were reinstated under the new form of contract.

Q. They were not removed, were they?

A. No, sir.

Q. Then, there was no reinstatement necessary.

A. We had never canceled our arrangement with Eber & Company, and we had not renewed the contract with Bates and Holdsworth.

Q. They were handling it under the old Eber contract?

A. Yes, sir.

Q. The agency was never taken away from them?

A. No, sir.

Q. Mr. Lynne also testified, I think, that Mr. Bower——

A. Yes, sir; Mr. Bower.

Q. He was the agent at Lynn, Massachusetts, and you were familiar with that situation?

A. Yes, sir.

Q. Describe that?

A. During the early part of 1916, when circulars were sent out broadcast by the Pictorial Review Company, it was reported to me——

Q. What year?

A. 1917—I will always get that 1916—in 1917, that the North Shore News Company were wholesaling "Pictorial Review"; so I personally called on Mr. Bower to find out whether there was any truth in the statement or not. Mr. Bower assured me that he was dealing with the "Pictorial Review" direct under an arrangement which antedated his Curtis contract with us; that there were two separate concerns in the city of Lynn, the R. S. Bower & Company, which is incorporated under the laws of Massachusetts, and also the North Shore News Company, also a Massachusetts corporation, and that the "Pictorial" arrangement was with Bower & Company, whereas the Curtis contract was with the North Shore News Company. Because this arrangement, which Mr. Bower described, antedated his signing the Curtis contract with me personally, I made no attempt to disturb the arrangements between us.

Q. Did you have any applications from any other concerns?

A. I think we have about six applications for our agency at Lynn.

Q. So, if you had to change, you would anticipate no difficulty?

A. No, sir.

Q. The difficulty of changing had no effect on your mind in that situation?

A. No, sir; Mr. Lynne, I believe, stated that he had subsequently learned that the North Shore News Company had subsequently taken on the Crowell publications. If that is so, we will change the Lynn agency.

MR. DALY: It is so.

MR. MILBURN: Then, you can use one of your applications?

THE WITNESS: Yes.

By MR. MILBURN:

Q. Further reference was made by Mr. Lynne to a conversation had between you and Mr. Martin, with reference to the Fall River agency.

A. Well, the conversation referred to by Mr. Lynne that Mr. Martin, Lynne and I had at Fall River, was a post mortem statement. Martin had about two weeks previously to that received his notice that our relations were to be terminated. So, anything said there was perhaps a rehash and repetition of things I had told Martin over and over again.

Q. You had seen Martin before?

A. Yes, sir.

Q. Had he been an agent for some time?

A. Several years.

Q. You had trouble with him before?

A. Mr. Martin was more or less of an agitator in that territory, and was conducting himself in a way that I considered detrimental to our interests.

Q. You had given him notice to discontinue?

A. I had given him notice of his discontinuance.

A. He does not act for you now?

A. No, sir; Joseph Medowsky is our agent.

Q. You felt that Martin was unfriendly to your concern?

A. I had several evidences of it, yes.

Q. It was testified in the record—Mr. Riser testified that you were the author of a letter that went out over his signature.

A. I remember that distinctly. That letter was written in my office following a conversation which I had with Mr. Riser, which is substantially outlined in the letter itself. I asked Mr. Riser to write the letter to Mr. Douglas. I had a very definite reason for doing so. I had asked a number of our agents to write similar letters bearing out the facts in their individual cases, solely to establish the point that in that territory there were numerous cases—almost wholly so—where we had established these men in the magazine wholesale business. So, Riser's letter was written with that thought in mind, and he stated the facts to me. I asked him to write the letter. He said, "I am not a very good composer; will you not write it?" I said, "All right, I will have the letter struck off here and you put your John Hancock on it and we will send it on."

Q. Did he read it before signing it?

A. Yes, sir.

Q. You had seen Riser with reference to this situation in Boston?

A. Yes, sir; since Riser wrote that letter I have had a number of talks with him about the situation there, and only recently Mr. Riser made some more statements similar to the statements in that letter, because I told Riser I could not accept the statements——

Mr. Daly: What is that question?

MR. MILBURN: If he had further conversations with Riser.

MR. DALY: About what?

MR. MILBURN: About handling the Crowell magazines.

By MR. MILBURN:

Q. Do you know whether he was asked to handle that through boys?

A. Yes, sir.

Q. What did he say?

A. Riser was approached by representatives of the Crowell Company in November, 1917, to sign a contract to handle their publications. Mr. Riser stated that the representatives of the Crowell Company told him that his acceptance of that contract would be in absolute harmony with the Curtis Publishing Company; that they would be only too glad to have him take up their magazines. Riser signed the contract on the 26th or 27th of November, 1917, to wholesale their publications. He subsequently learned it would not be agreeable to us, and so notified the representative of the Crowell Publishing Company. Several representatives of the Crowell Publishing Company called on Mr. Riser subsequently——this contract, by the way, was to start, I believe, with the first issue of "Every Week" put on in New England the first or second week in January, 1918. After Riser found that the contract had been misrepresented to him by the Crowell representatives, he was desirous of getting out from under, to use his expression.

MR. DALY: I ask that that be stricken out.

THE WITNESS: I have the sworn affidavits with all the exhibits, and I will be glad to put them in.

MR. DALY: I do not care about that.

By MR. MILBURN:

Q. Riser was a Curtis agent and he got his reports from Riser as to what happened?

EXAMINER MOORE: He is charging the Crowell people with misrepresenting things. That should not be done on hearsay, you know.

MR. MILBURN: That is perfectly true.

By MR. MILBURN:

Q. Did he continue with the Crowell people—handling their publications?

A. He was finally induced by the Crowell representatives to put up a fight, after he was in it and could not very well get out.

MR. MILBURN: That is not my question. I will ask that that be stricken out. I asked you if he continued to handle the Crowell publications?

A. He did.

By MR. MILBURN:

Q. Do you know whether he handled those under a guarantee arrangement?

A. Yes, sir.

Q. What was it?

A. The Crowell Publishing Company first made him a guarantee of $70 weekly provided the Curtis Publishing Company took their agency away from him.

Q. Did you take it away?

A. Yes, sir; and Riser felt it was not enough money and the Crowell people made him a further guarantee of $135 a week. That offer was in writing, and I think the letters are in evidence.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Mr. Flanders, when you had Mr. Riser down in your office about this letter that he wrote, that has been spoken about as having been written in your office——

A. That was testified about in Boston.

Q. Yes. You say Mr. Riser told you about that situation and then you wrote the letter from what he told you?

A. Exactly; some of the facts in the case I was not familiar with.

Q. But were you not familiar with most of the facts in that territory?

A. I was not, sir, because Mr. Riser was appointed our agent——

MR. SPIESS: Just a moment. I did not ask that.

MR. MILBURN: Wait until the question is asked and then you can answer it.

By MR. SPIESS:

Q. Were you not familiar with the situation surrounding Mr. Riser's agency?

A. Mr. Riser was appointed as our Boston district agent before I went to the New England territory.

Q. How long had he been your agent before you got there?

A. Several months.

Q. How long were you in Boston as a Curtis agent?

A. The latter part of June or July, 1916.

Q. Was Mr. Riser your agent—was he not your agent when you got there?

A. Yes, sir.

Q. When did he write this letter?

A. August, 1917—that is the date the letter was written.

Q. That was over a year, was it not—you came in the early part of 1916?

A. Exactly.

Q. And this was written in August, 1917?

A. Yes, sir.

Q. You were there over a year, were you not, in Mr. Riser's territory, as an agent?

A. I stated that some of the things that Riser told me——

Q. Just answer the question. Were you not there over a year in Mr. Riser's district before he wrote that letter?

A. Exactly; I was there over a year when the letter was written.

Q. Had you not been there long enough to be familiar with the situation as concerned Mr. Riser's agency in that territory?

A. No, sir; I was not. I did not know the conditions surrounding the appointment of Riser; what he was doing before he was appointed, or some of the things he wrote in that letter. That was a statement of the facts as I got it from him.

Q. You took his statement as true?

A. Exactly.

Q. You heard him testify on the stand it was not true?

A. No; I did not.

Q. Did you not hear Mr. Riser testify that the facts were not true?

A. No, sir; I understood him to say he did not write the letter.

MR. SPIESS: The record speaks for itself.

MR. MILBURN: I will agree with you that he did so testify, Mr. Spiess.

MR. SPIESS: I do not want you to agree with me that the record shows so and so. It speaks for itself.

By MR. SPIESS:

Q. Now, you spoke of Mr. Mishara being your district agent. How long had he been district agent for the Curtis Publishing Company?

A. Since some time in November, 1917, up until the latter part of March, I believe.

Q. November, 1917, up to March?

A. March, 1916, up to the latter part of March, 1917.

Q. Had he ever handled the "Pictorial Review"?

A. Had he ever handled the "Pictorial Review"?

Q. Yes.

A. At that time?

Q. Yes.

A. Not to my knowledge.

Q. Before Mr. Mishara became district agent for the Curtis Publishing Company, who was the district agent?

A. We had three or four district agents.

Q. Just before him?

A. Riser covered part of the territory that Mishara covered ahead of Mishara, and we had three or four other agents that covered these various sections.

Q. Then Mr. Mishara covered that territory himself for a period of four to five months?

A. Yes, sir.

Q. How long did he put out the Curtis magazines before the date of issuance?

A. How often did he put them out?

Q. Yes.

A. He always distributed the Curtis magazines before the sales date.

Q. When did you first know of that?

A. Well, since he was always doing it, I knew of it from the beginning.

Q. Did you ever give him permission to do that?

A. Any agent of ours has permission to deliver copies to his sub-agents before the date of sale, provided he can control the sales date, prevent the selling of copies to retailers before the sales date.

Q. As a matter of fact, didn't you give permission to Mr. Mishara to put these copies out before the sales date?

A. No, sir.

Q. For five months you knew he was doing it, and yet you did not attempt to stop it?

A. These premature sales would crop out at various parts of his territory. He made some attempt to stop them, but they would crop out first here and then there—crop out in different sections at different times. As a result of his system of distributing magazines, however, it was almost a regular thing for copies to be sold in his territory prematurely.

Q. Was that Mishara's fault?

A. We considered it the agent's fault; yes. His contract requires that no copies shall be sold before the authorized sales date and it is his duty to see that they are not so sold.

Q. After you changed his agency, you put it into the hands of eighteen agents?

A. Yes, sir; split it up into smaller agencies.

Q. Why did you do that?

A. In order to obtain more intensive work and improved service. Mishara was not giving the boys the attention they needed and it was almost impossible to get any concentrated work in any of the territory covered by him. He was more of a distributor than a promotor.

Q. The territory was too large for him?

A. I think it was; yes, sir.

Q. Now, did you get Mr. Boland to write a letter similar to the one that Mr. Riser wrote?

A. I did not get Mr. Boland to write one, but Boland did write one.

Q. Have you a copy of it?

A. I believe Mr. Douglas has. It was sent to Mr. Douglas.

Q. Can we have that copy, Mr. Douglas?

THE WITNESS: It was a letter written in August, I believe, from Mr. Boland telling us of his early appointment with us.

MR. DOUGLAS: I did not bring any correspondence with me.

THE WITNESS: I asked several agents to write similar letters. These road men, in their conversations, asked about their agencies, and in some instances, they were requested to write letters, and others wrote them voluntarily.

Q. Were you familiar with the situation in Mr. Boland's district?

A. I was quite familiar with the situation in Worcester because, as a road man, I had visited Worcester some years ago and had done some very intensive work there.

Q. And Mr. Boland had made a correct statement of the situation in his letter—is that so?

A. To what do you refer?

Q. That letter you asked him to write.

MR. MILBURN: Is there any proof that he saw it?

By MR. SPIESS:

Q. He said he sent it to Mr. Douglas.

A. I am not positive whether the letter was addressed to Mr. Douglas's office or my office, but I remember seeing the letter addressed from Boland.

Q. Do you know whether or not the statements therein contained were true?

A. I believe they were.

Q. Do you know?

A. I say I believe they were, from my knowledge of Worcester. As to the exact year, I think he stated he started with the company in 1901. I was not with the house then, and all I have is Boland's word for it.

Q. You say in only a few instances did the "Pictorial Review" meet with any success in having their magazines distributed through wholesalers that were handling the Curtis publications?

A. I said that?

Q. I think you testified to that?

A. I do not remember making any such statement.

Q. I think you testified that Mr. so and so—I cannot recall the name—that one of the agents there was one of the few of your agents that handled the "Pictorial Review." I cannot recall the name.

A. There is a difference between handling the "Pictorial Review"—using the present tense and the past tense. Are you referring to the past tense or the present tense?

Q. I am referring to what you were talking about.

A. I did not make any such statement. I can name a dozen or more agents who took "Pictorial Review," and cities where we made changes, because they took them on, and cities where we have not made changes, but intend to do so. There were many who did take it on, but what success they had in selling it is beyond me.

Q. You spoke of these six applications, what were they?

A. From time to time we receive applications for our agencies in these various cities. When the applications come in we put them in what we call our application files. Sometimes they are from busybodies, who are not interested at all, but sometimes they are from men who are anxious to get into the business, and so, we put them in the files, and when our man comes in, we have him look up the applicants. I think we have six now from the city of Lynn.

Q. When did you receive those six applications?

A. I could not state definitely. They come in at various periods. I think some of them have been re-

ceived within the last three or four months—at least one or two of them.

Q. Can you tell how long you have had the first application for the Lynn agency?

A. No, sir; I cannot say offhand, but I imagine for several months.

Q. Then, you have not had these six applications for a very long period, have you?

A. I believe that at least one of the Lynn applications has been in our file for a year.

Q. You have those applications in your files, have you?

A. I believe so.

Q. Will you produce them.

A. I can do so; yes, sir.

Q. Take the Black Brothers, of Manchester. Did they ever handle the Crowell publications?

A. Yes, sir.

Q. Did they handle them after they took on the Curtis publications?

A. Yes, sir.

Q. Were they compelled to give them up?

A. Mr. Black told me that the agency was presented to him—that is, the Crowell agency—was misrepresented to him, and after he found out the true facts in the matter, he discontinued it of his own will.

Q. You had nothing to do with that?

A. No, sir; he was promised by the Crowell representative that he would be given the agency for a Boston paper, if he took on the agency.

Q. Do you know a Mr. Madowsky, at Fall River?

A. Yes, sir.

Q. Do you know when he lost the agency for the "Boston Herald"?

A. Yes, sir.

Q. When was that?

A. He lost the agency for the "Boston Herald" the very same week he was appointed Curtis agent.

Q. Did he discuss that with you?

A. Subsequently he did; yes, sir.

Q. What was said about it?

A. Simply to tell me he had lost the agency for it. His losing the "Boston Herald" agency had absolutely nothing whatsoever to do with the matters discussed in this case. It was simply a plan that had been contemplated by the "Boston Herald" not only in Fall River, but in four other cities in which they made the changes.

Q. What I am asking you about is did he discuss anything with you other than losing the "Boston Herald," so far as any arrangements he may have had with the Curtis Publishing Company are concerned?

A. Well, we discussed various angles of our business, when we got together.

Q. Did he discuss with you the loss of any revenue from losing the "Boston Herald" agency?

A. I believe he mentioned something about the "Boston Herald" revenue; yes, sir.

Q. What was said?

A. I told Mr. Madowsky if he was the kind of agent I thought he would be for us, he need never worry about losing the "Boston Herald" agency, because he would probably make more money with us than he was making for the "Boston Herald," and I believe he is.

Q. Does he get anything else besides commissions from the sale of the magazines of the Curtis Publishing Company?

A. Yes, sir.

Q. What does he get?

A. His earnings are guaranteed at thirty or thirty-five dollars a week.

Q. This guarantee to Madowsky has nothing to do with some wholesaler in that town buying Curtis publications and selling them to retailers?

A. I do not quite understand your question?

Q. You testified in two cases, the Curtis Publishing Company had guaranteed the Curtis agents certain sums.

A. Yes, sir.

Q. And that that was due in one case——

A. In both cases.

Q. (Continuing) ——in both cases to other wholesalers in that town purchasing Curtis magazines and distributing them to their retail trade and thereby hurting the sales of the wholesaler?

A. I referred in that case, to our outgoing agents.

Q. What agent in Madowsky's territory is buying Curtis magazines at wholesale and selling them to the retail trade?

A. Mr. Martin is buying copies now and supplying dealers in that town, and I believe he is supplying some boys in that town.

Q. When did you discuss with Madowsky this guarantee—was it not right after losing the "Boston Herald"?

A. The guarantee offer was not made to Madowsky until at least two or three weeks after he was appointed under the regular form of contract, with the regular commission allowances, etc.

Q. Do you know of any outgoing agent that has gone to the retailers and threatened them with the loss of other magazines unless they took the Curtis publications from them?

A. Yes, sir.

Q. Who?

A. I have affidavits from some of these agents.

MR. MILBURN: State who they were.

THE WITNESS: Mr. Martin, of Fall River, was one.

By MR. SPIESS:

Q. Who else?

A. Mr. Katz, of Lowell.

Q. West, of Fitchburg, who else?

A. Those are all that occur to me right at the present time, but I believe there are others.

Q. Did you have to guarantee the incoming Curtis agent anything because of West's activities?

A. Not because of that—that agent—he was not interested in the agency. He was one of the fellows that had plenty of money of his own and he was interested in it from the standpoint of working and helping the boys in the community.

Q. Do you know any retailer in Mr. Katz's district that was threatened by Mr. Katz?

A. I have had it said by half a dozen dealers I visited in Lowell myself personally—called on a number of dealers, and have had them tell me that they would like to buy copies of our agent, but they were afraid to, that Katz had threatened to cut them off if they did not stay by him and buy the Curtis publications from him.

Q. How many wholesale distributors are there in your territory?

A. Wholesale distributors?

Q. Curtis wholesale distributors?

A. I don't quite get your point—Curtis wholesale distributors? If you mean Curtis district agents, we have 135.

Q. How many of these 135 attempted to handle "Pictorial Review"?

A. How many attempted to handle it, or did handle it?

Q. Did or attempted to do it?

A. I should say that we have changed approximately twenty-five agencies in the territory because they took on "Pictorial Review," and there are perhaps some more.

Q. Who handles the Curtis publications now in Mr. Riser's old territory?

A. Mr. Riser's old territory, a gentleman by the name of Samuel Saxe.

Q. Where is he located?

A. He is now located at 34 Court Square, formerly 247 Washington Street.

Q. Where is Mr. Riser located now?

A. Same place.

Q. Where was Mr. Riser formerly located?

A. 257 Washington Street.

Q. So Mr. Saxe is receiving his Curtis magazines in Mr. Riser's place of business, is he?

A. Mr. Saxe, when he started as our agent, operated from Washington Street, but his headquarters were upstairs and he had to lug his magazines up and down stairs, and it was not a very efficient method, so Riser had a very large place on Court Square, and Mr. Saxe arranged to sublet part of his space for handling his Curtis business. Mr. Saxe is going in, as I understand, next door and have his own headquarters, separate and independent from Riser's headquarters.

Q. What did Mr. Saxe do before he took on your agency?

A. What did he do?

Q. Yes.

A. Why, he was what might be termed—what they call in newspaper circles, "a Canada point man," a man who distributes early morning newspapers. In his particular case to a certain number of boys for sale on the streets.

Q. What connection did he have with Mr. Riser?

A. He had no connection whatsoever with Mr. Riser's business.

Q. Don't you know as a matter of fact that Mr. Saxe is handling the Curtis publications for Mr. Riser?

A. Handling them for Mr. Riser?

Q. Yes.

A. Don't I know that Mr. Saxe——

Q. Just answer my question, Mr. Flanders?

A. I know no such thing, and I am positive that no such thing is being done. Mr. Saxe—I know his arrangement with Mr. Riser. He is paying Mr. Riser while he is in there so much money for the privilege of being in there.

Q. Do you know how much he is paying now?

A. Eighteen dollars a week.

Q. Do you know what the store rents for?

A. Twelve dollars a year.

Q. One hundred and fifty dollars a month?

A. Exactly.

Q. That is more than half the month's rent, is it not?

A. I beg your pardon.

Q. Eighteen dollars would be more than half a month's rent?

A. You can understand that is a sublet arrangement. If you attempted to rent such a place in the city of Boston you would find it would cost you a good deal more than that.

Q. Have you severed your relations with Mr. Riser?

A. Yes, sir; since the issue dated January 19th, 1918.

Mr. Spiess: That is all.

Mr. Milburn: That is all.

Examiner Moore: Call your next witness.

Mr. Milburn: Mr. Baker.

F. W. Baker, was called as a witness on behalf of the respondent, and, being duly sworn, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. By whom are you employed?

A. Curtis Publishing Company.

Q. What do you do?

A. Superintendent of agents for Northern New Jersey, Southern New York State and Long Island.

Q. How long have you been superintendent of agencies?

A. I have been superintendent of agencies for going on to five years.

Q. During that five years you have had certain agents whom you supervised, is that correct?

A. Yes, sir.

Q. You are familiar with their towns and with them—you have been familiar for some time?

A. Yes, sir.

Q. And recently have you made a special investigation at the request of the home office?

A. I have.

Q. To obtain certain information for use in this case, is that correct?

A. Yes, sir.

Q. And in that investigation, have you covered parts of the district other than your own?

A. I did.

Q. And your information as to those towns was derived from that investigation you made?

A. Yes.

Q. And in addition to your old territory have you just recently covered some new territory?

A. I have, yes.

Q. So that I will ask you the names of the towns.

as they come up, to tell us whether it is in the old territory, the new territory, you handle, or just in the territory you have investigated. How many towns did you investigate?

A. A total of forty-nine.

Q. How many agents were operating in those towns?

A. Approximately forty-nine.

Q. In how many of those towns was the Curtis agent the only wholesaler?

A. In eleven of the towns.

Q. And of those eleven, are there any of them boys —how many are boys?

A. Eight of those eleven are boys.

Q. Of the eleven, in how many instances did the wholesaler handle only the Curtis publications?

A. In six of the instances.

Q. In how many of all the forty-nine agents you investigated, how many of them began their magazine wholesaling business with the Curtis publications?

A. Thirty-three of them—how many began with the Curtis?

Q. Yes; wholesaled Curtis first?

A. Thirty-six out of the whole forty-nine.

Q. Of the forty-nine agents investigated, how many of them handled only Curtis publications? Take the forty-nine Curtis agents you investigated, how many of them handled only Curtis magazines?

A. Thirty-one of them.

Q. Just for my information, give us a list of some of the principal towns in your own district that you are familiar with.

A. The leading ones would be Trenton, Plainfield, Newark, Asbury Park, Passaic, Perth Amboy, Elizabeth, Rahway, Yonkers, Mount Vernon, New Rochelle.

Q. What is this new district you have just taken on?

A. This new district consists of the largest cities in Northern New Jersey, three towns and cities in Southern New York State and Long Island. I have only had that since last November 1st.

Q. Your familiarity with the situation in each town there is not as great as it is in your own district?

A. No.

Q. Did you investigate some of Mr. Brumbaugh's towns?

A. Brumbaugh's Pennsylvania and New York towns.

Q. How many of those did you investigate for him?

A. Nine of them, altogether.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You stated, Mr. Baker, that thirty-one of the forty-nine agents handle only Curtis publications. That would leave eighteen that handle Curtis publications and other magazines; is that true?

A. That handle Curtis publications and other magazines?

Q. Yes.

A. Not in that total number, because amongst that there is a number that handle only Curtis publications and newspapers, in some cases.

Q. Of those thirty-one that you spoke of, do they handle any newspapers?

A. Some of them, yes.

Q. I don't just get that straight, then. Out of the forty-nine——

A. Of my agents, all that I investigated in my

own territory, there are nine agents that handle absolutely nothing but Curtis publications.

By Mr. Milburn:

Q. How many towns does that cover?

A. That covers practically forty towns, not counting the nine extra ones.

By Mr. Spiess:

Q. Now, of that nine——

Mr. Milburn: You don't want the nine.

Mr. Spiess: I am speaking about the nine he investigated for Mr. Brumbaugh. I want to know if he can tell us, of that number, how many handle only Curtis publications?

By Mr. Milburn:

Q. Can you give us the nine towns you investigated?

A. Yes, sir; the nine towns were Elmira, Towanda, Corning, Bath, Hornell, Bradford, Kane, Clearfield

Mr. Welch: That is only eight.

The Witness: Nyack, New York, is in another territory besides that.

Mr. Milburn: You want to know in which ones of the nine our man handles other magazines?

Mr. Spiess: No, I want to find out which ones handle only Curtis publications. He said only nine of the forty.

Mr. Milburn: He is working now on the nine of Brumbaugh's.

Mr. Spiess: I understand that. I want to find out of that nine of Brumbaugh's how many handle only Curtis publications, exclusively.

By Mr. Milburn:

Q. Of that figure of thirty-one, do you include newspapers or do you exclude them?

A. The figure of thirty-one includes as magazines, Curtis's—it did not include magazines and newspapers.

MR. SPIESS: That is what I am trying to get. Then you say here of the forty-nine handle only Curtis publications?

By MR. MILBURN:

Q. Can you give us the names of the eighteen towns? In other words, subtracting your thirty-one from the total list investigated, can you give us the names of the eighteen towns?

A. Yes, sir; where the Curtis is the only magazine?

Q. Well; you have got it all backwards. You stated in thirty-one towns the district agents handled only Curtis magazines; is that correct?

A. Handle only Curtis magazines.

Q. Then the other eighteen must handle other magazines?

A. Yes.

Q. That is what we want.

A. Corning, N. Y.; Hornell, N. Y.; Elmira, N. Y.; Yonkers, N. Y.; Bradford, Pa.; Clearfield, Pa.; Asbury Park, Dover, N. J.; Elizabeth, N. J.; Orange, East West and South—include that under one agent; Hackensack, Morristown, New Brunswick, Newark, Paterson, Plainfield, Red Bank, Somerville. That is the eighteen.

By MR. DALY:

Q. These are the towns, I understand it, where they handle other magazines.

A. Other magazines.

By MR. SPIESS:

Q. Now, in Bradford, Pa.; Ryman & Orange are the Curtis agents and handle Curtis publications, "Collier's Weekly" and "Literary Digest," and also the "New York American." Barney Garbarsky wholesales Hearst and the Crowell?

A. That is right.

Q. And also newspapers?

A. Newspapers.

Q. How long has Mr. Garbarsky been wholesaling magazines in that territory, do you know?

A. I do not. That was the only time I had ever been in the territory, on this special investigation. That was one of the Pennsylvania and New York towns that I had gone into, just especially.

Q. Do you know when the Crowell group went independent?

A. Last winter, was it not?

Q. How long have you had this Curtis agent in Bradford?

A. I am not prepared to say that either.

Q. Is he the largest wholesaler of magazines in that territory?

A. From the appearance when I went into the town the only time, the other man looked to be the leading wholesaler.

Q. Outside of Hearst's, what does he wholesale, and the Crowell?

A. Hearst's and Crowell and all of the newspapers.

Q. I mean in magazines.

A. That was all of the magazines.

Q. What is the population of Bradford, Pennsylvania?

A. I would guess it at about 7000.

Q. Plainfield, New Jersey, William H. Olmsted is the Curtis agent?

A. Yes, sir.

Q. And the agent for "Etude." Edward A. Laing is the wholesaler for the "Pictorial Review" and Hearst group and Crowell group; is that true?

A. And the "Munsey."

Q. You haven't got "Munsey" on here.

A. "New York Journal" and "World."

Q. Yes; but I mean in the magazine line. You have not got Munsey on your report. Mr. Laing does handle it?

A. On my report—copy of that report that I have in my book, I had "Munsey." I don't know whether I have it on the report, or not.

Q. Do you know whether "Pictorial Review" tried to get the Curtis agent there to handle its publications?

A. Not that I know of.

Q. Did you make any attempt to find out?

A. No.

Q. Is Olmsted the largest wholesaler of magazines in that territory?

A. No, indeed.

Q. Is he as large as Laing?

A. No.

Q. Then Laing is the largest, is he not?

A. I should say so, yes.

Q. What is the population of Plainfield?

A. About 30,000.

Q. Hackensack, New Jersey, Max Okin is your agent, is he not?

A. Yes, sir.

Q. Do you know any other wholesale distributor of magazines in that territory?

A. Not of magazines for Hackensack, no.

Q. He is handling the "Pictorial Review," too, is he not?

A. He is.

Q. Has any objection been made to handling "Pictorial Review"?

A. According to his contract, it is wrong, yes.

Q. Has any objection been made on the part of you or the Curtis Company?

A. I have not been to see Mr. Okin for quite a length of time.

Q. Did you see him on this visit?

A. On that visit I saw the other wholesalers. I knew what Mr. Okin had. I saw the young lady who runs the business for Mr. Okin there, and saw his son on the last visit.

Q. What is the population of Hackensack?

A. I should say in the neighborhood of 7000.

Q. Are you going to change that agency?

A. Yes, sir.

Q. Because they handle "Pictorial Review"?

A. One of the reasons, yes.

Q. Is that one of the reasons?

A. That is the main reason, yes.

Q. Elizabeth, New Jersey, Swartzbach is your agent?

A. Yes, sir.

Q. And handles the Hearst group. Komish is agent for the Crowell group and the Munsey group?

A. And Motion Picture group.

Q. And the Motion Picture Publications, and they are the only wholesale distributors of magazines in that territory, except the American News Company branch?

A. Elizabeth News. That is the Elizabeth News, our agent and John Komish.

Q. What is that?

A. There are three wholesale magazine agents there.

Q. Yes?

A. Elizabeth News.

Q. One of them is a branch of the American News Company, though, is it not?

A. Yes; that is a branch of the American.

Q. When did Komish take on the Munsey group, do you know?

A. He has had it for quite a while. I should say over a year.

Q. Over a year?

A. Yes. Elizabeth is another one of the large towns that I took hold of in the past seven months.

Q. How long has he been handling the Crowell group, do you know?

A. No, sir; I don't.

Q. The Motion Picture publications?

A. I think he took that on within the past six months.

Q. Then, prior to the time that the Crowell group and the Motion Picture group and the "Pictorial" went into—independent of the American News Company—Swartzbach was the largest wholesaler of magazines in that territory; is not that true?

A. He was the wholesaler giving us the best results.

Q. He was the largest, was he not, according to your report? What is the Munsey group?

A. The Munsey group is the "Railroad," "Munsey," "Argosy," "All Story."

Q. Is that as large as the Hearst group?

A. That is five magazines.

Q. Is it as large as the Hearst group?

A. In number of magazines, yes.

Q. How about circulation?

A. No, it does not equal Hearst, I think, in circulation. I don't know exactly the figures for Elizabeth.

Q. Ordinarily, the Hearst group has a larger circulation than the Munsey group; is not that true?

A. Yes.

Q. Then the Curtis publications, combined, would make Mr. Swartzbach the largest wholesale distributor of magazines in that territory; is not that true?

A. Yes, sir.

Q. What is the population of Elizabeth?

A. About 75,000.

Q. Asbury Park, Harrison is your agent of the Curtis publications, Munsey group, Warner and "Literary Digest." Bruno is agent of the Hearst group, Motion Picture publications. How long has Harrison been your district agent?

A. About ten years.

Q. Is the Asbury Park News Company a branch of the American News Company?

A. Yes, sir.

Q. So that when "Pictorial Review" and "Motion Pictures" went independent of the American News Company, Bruno was only handling the Hearst group; is not that true?

A. Yes, sir.

Q. Then Harrison was the largest distributor of magazines in Asbury Park?

A. No; he was not. The Hearst group is the largest. The Hearst group has five to six magazines in it. He is a distributor for the Hearst group and the "Mail" and the "New York Journal."

Q. No; I am asking about magazines now. I am asking you if the Hearst group is larger than the group of the Curtis publications, the Munsey group, the Warner publications and the "Literary Digest"?

A. Excluding the "Pictorial Review" and the Motion Picture publications?

Q. Yes; I am excluding those.

A. The Hearst group is one of the largest groups of magazines distributed down along there.

Q. Just answer my question; is the Hearst group larger than the Munsey group, the Munsey publications, the Warner publications, and the "Literary Digest" combined?

A. No; I guess not.

Q. Then Harrison is the largest wholesale dis-

tributor of magazines in Asbury Park; is not that true —at that time?

A. Yes.

Q. What is the population of Asbury Park?

A. That is hard to say. In the winter time it has a very small population.

A. Well, I guess that was not a fair question.

EXAMINER MOORE: Cannot the population of all of these towns be supplied later on, by census, or something like that?

By MR. SPIESS:

Q. Morristown, New Jersey, Rankin and Brooks are the Curtis agents?

A. Yes, sir.

Q. And the only wholesale distributor of magazines in that district; is not that true?

A. Yes.

Q. And they handle "Pictorial Review" and the Crowell group?

A. Yes.

Q. Is it your intention to make a change in the agent there for the reason that they are handling "Pictorial" and the Crowell group?

A. As soon as I can get to that.

Q. What is the population of Morristown?

A. About 10,000.

Q. Dover, New Jersey, Havens is the Curtis agent?

A. Yes.

Q. And the agent for the "Pictorial Review," Mr. Lansing, is the agent for the Crowell group?

A. Yes.

Q. Do you know how long Mr. Lansing has been agent for the Crowell group?

A. I think about six months or less.

Q. So that before the "Pictorial Review" and the Crowell group went independent, Mr. Havens was the only distributor of magazines in that territory?

A. Yes.

Q. What is the population of Dover, do you know?

A. About 6000.

Q. New Brunswick, New Jersey, George Snyder is the wholesale distributor for Curtis publications, "Pictorial Review" and the Hearst group. Seiffert is the wholesale distributor for the Crowell group?

A. Yes, sir.

Q. And before the Crowell group went independent Snyder was the only distributor in that territory of magazines?

A. That is right.

Q. He is handling "Pictorial Review" now, is he?

A. Yes; he was the last time I went there to see him. That has been quite a while ago.

Q. Is it your intention to cut him off, for that reason?

A. If the conditions are the same when I get there.

Q. That is, if he is handling "Pictorial Review"?

A. Yes.

Q. What is the population of New Brunswick?

A. About 30,000.

Q. Red Bank, New Jersey, Tetley is your agent?

A. Yes, sir.

Q. And handles "Collier's Weekly," and is the only wholesale distributor in that territory?

A. Yes, sir; of magazines.

Q. Did he ever handle "Every Week"?

A. Not that I know of.

Q. Did he ever handle "Pictorial Review"?

A. Not that I know of as the wholesale agent.

Q. Was he ever approached to handle either one of those magazines?

A. Not that I know of.

Q. What is the population of Red Bank?

A. About five or six thousand.

Q. Corning, New York, Tobias is the agent for the Curtis Company, and the Hearst group and the "Literary Digest." William R. Kling is agent for the Crowell group, "Pictorial Review" and Warner publications. How long has Mr. Kling been in business?

A. That is another one of those special towns that I only went to on this investigation for the first time.

Q. Well, you know as a matter of fact the Crowell group and the Pictorial group and Warner publications have only gone independent since April, 1917? Is not that when it was, about the early part of 1917?

A. Yes.

Q. And Tobias was the only wholesale distributor of magazines in that territory at that time; is that true?

A. At that time.

Q. What is the population of Corning, do you know?

A. I do not know. I should say about 10,000—maybe 15,000.

Q. Hornell, New York, A. W. Smith is the Curtis agent and handles the Hearst group, "Pictorial Review" and the Crowell group and the Munsey group?

A. Yes.

Q. In fact he is the only wholesale distributor of magazines in that territory?

A. So I have found.

Q. He is handling "Pictorial Review," and the Crowell group. How long has he been handling those magazines?

A. I do not know.

Q. Is it your intention to cut him off?

A. Well, another superintendent handles that, so any instructions that way, he would get.

Q. Elmira, New York, Rubin Brothers handle Curtis publications, the Hearst group, "Pictorial Review" and "Literary Digest." Norton handles the Crowell

group. Do you know how long Rubin has been handling the "Pictorial Review"?

A. I do not.

Q. How long has Mr. Rubin been the Curtis agent there?

A. Well, he is one of the old agents, but I am not prepared to say how long.

Q. Two years?

A. I have never been in the city before this trip that I made—never seen the record.

Q. Well, assuming then that he was an agent for two years, Rubin, of Elmira—assuming that he was an agent in January or February of 1917, he was the only wholesale distributor at that time of magazines?

MR. MILBURN: You want to assume that, if he does not know, in assuming he was the only one.

MR. SPIESS: If you can contradict that, we will simply admit it in the record and strike it out. He stated that he was an old agent, but he don't know how long he has been there.

THE WITNESS: Even that does not extend beyond the investigation that I made.

MR. SPIESS: Our best information is that he has been there a longer while.

MR. MILBURN: I do not know whether anybody else has been up there wholesaling other magazines in the last four or five years. That is the only thing I was suggesting. This man does not know. Rubin might have been the only one, and there might have been two.

By MR. SPIESS:

Q. Today, Mr. Rubin is the principal wholesale distributor of magazines in that territory?

A. At the time I made that investigation he was, yes.

Q. And it is dated March 5, 1918?

A. Outside of Roy Norton, who is handling the Crowell—Robert Norton.

Q. What do you mean, outside of Robert Norton? Is Robert Norton as big and efficient a distributor of magazines as Mr. Rubin?

A. No, sir; Robert Norton is the distributor for the Crowell.

Q. I asked you if Mr. Rubin was not the principal distributor of magazines?

A. At that time, yes.

Q. Yonkers, New York, John Dixon is the wholesaler for Curtis publications, "Deutsch-Amerika," "Literary Digest," and Beaver Brothers are distributors of the Hearst group, and Stetser, distributor for the "Every Week." When did Mr. Beaver become agent for the Hearst group?

A. I am not prepared to say that. That is a part of the southern New York territory that I took hold of only seven months ago. I visited the town only once.

Q. Who is the largest distributor of magazines in that territory?

A. The Joseph Beaver Brothers are considered the largest distributors there.

Q. The largest one?

A. Yes.

Q. And they handle the Hearst group?

A. The Hearst group and the "Journal-American."

Q. What?

A. Newspapers that go with the Hearst group.

Q. But magazine distributors, Beaver Brothers are larger distributors of magazines than Dixon?

A. They are the ones that my interviews with all of the dealers around town, and with the five or six wholesale agents—Beaver Brothers were the ones that they were all speaking about as the distributors there.

Q. Then you wish to go on record as saying any particular place, Yonkers, the Hearst group is larger than the "Literary Digest" and the "Deutsch-Amerika," and the Curtis publications combined?

A. Joseph Beaver Brothers——

MR. MILBURN: It is perfectly clear what he means, I think. His total business is bigger than the others—the whole business he does.

MR. SPIESS: Beaver's business?

MR. MILBURN: Yes.

THE WITNESS: They have three stands around the town there, magazine business, retailing and wholesaling.

By MR. SPIESS:

Q. Wholesale business in magazines?

A. Yes, sir.

MR. SPIESS: I withdraw that other question.

MR. DALY: Strike that out.

By MR. SPIESS:

Q. Paterson, New Jersey, William Suttle, the Passaic County News Company is the Curtis agent and distributes the Hearst group and "Pictorial Review" and "Collier's Weekly"?

A. Yes.

Q. What is the Paterson News Company?

A. I think that is a branch of the American.

Q. Then there is only one independent wholesale distributor of magazines in Paterson; is that true?

A. As far as I could learn.

Q. And he was handling "Pictorial Review"?

A. My report shows that.

Q. You intend to cut him off, if conditions are such when you return in that territory?

A. I expect to.

Q. Are these all the towns in which you investigated that Curtis dealers handle other magazines?

2173

A. Other magazines.

Q. Are there any other towns outside of the eighteen you gave me in which Curtis agents are handling any other magazines?

A. None outside of the eighteen, but you missed one.

Q. Have you changed many agents in this territory in the last six or seven months?

A. I have.

Q. Give me the names of the towns in which you changed agents.

A. Montclair, Passaic, Perth Amboy, Westfield, Princeton, Burlington, Summit, Rahway, Maplewood, Hempstead, Long Island——

Q. Why were those agencies changed?

A. Individually, each one, you want?

Q. Yes, take them as you go along?

A. Montclair, the boy I had moved, and I had to get another agent.

Q. He did not handle anything but Curtis magazines?

A. No, sir.

Q. Now, at Passaic.

A. My agent there was not satisfactory, on the boy point, and he handled "Pictorial Review."

Q. He handled other magazines?

A. Yes, sir.

Q. Is this a place you reported as handling only Curtis publications—your agent now—is he in that list of thirty-one that handle only Curtis publications?

A. On magazines, yes.

Q. Now, take Perth Amboy.

A. Perth Amboy, I changed there—the agent was handling "Pictorial Review."

Q. Was he handling other magazines?

A. Yes, sir; lots of them.

Q. Were there any wholesalers in the town at the time he handled "Pictorial"?

A. Yes, sir.

Q. What ones?

A. You have my Perth Amboy report there.

Q. Now, who was your agent before Mr. Stern?

A. Moore Brothers.

Q. And they only handled the Curtis group—they handled the Curtis group, "Pictorial Review," "Motion Pictures" and "Literary Digest"?

A. Did you mention the Hearst publications?

Q. Yes; the Hearst publications. They are the largest wholesale distributors of magazines in Perth Amboy, are they not?

A. I have not found the other distributor.

Q. Greenspan?

A. Yes.

Q. Take Westfield.

A. The agent there was handling the boys very unsatisfactorily, and I placed the agency with a boy there.

Q. Did he handle "Pictorial Review"?

A. No.

Q. At Princeton?

A. Well, I placed a new district agency there—from a small town agent to a district agency.

Q. That has nothing to do with the "Pictorial Review" people?

A. No, sir.

Q. How about Burlington?

A. The agent there had been drafted and I placed a boy there.

Q. Summit?

A. At Summit, Bovitz Brothers had the agency and were handling "Pictorial," and I placed a boy there.

Q. Was there any wholesaler in the territory at the time he took on the "Pictorial Review"?

A. He was handling "Pictorial."

Q. At the time he took on the "Pictorial Review" was there a wholesale distributor there?

A. Yes, sir.

Q. Now, Rahway.

A. The agent was taken in the draft there.

Q. Maplewood?

A. The boy agent gave us notice that he started farm work in the summertime.

Q. Hempstead.

A. He was caught in the draft—Class A-1.

MR. DALY: Are these all under the new contract?

A. Chiefly.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Baker, now, in Summit, you say Mr. Bovitz was the only magazine wholesaler there?

A. Yes, sir.

Q. He handles our paper?

A. Yes, sir.

Q. And took on the "Pictorial"?

A. Yes, sir.

Q. And you left him, did you?

A. Yes, sir.

Q. And established another branch?

A. Yes, sir.

Q. Did you have any difficulty in finding another man to take it?

A. None whatever.

Q. Now, there are two wholesalers in Summit?

A. Yes, sir.

Q. And does precisely the same situation apply to Perth Amboy?

A. Yes, sir.

Q. Moore Brothers were the big wholesalers?

A. Yes, sir.

Q. And you left them?

A. Yes, sir.

Q. And established your own man?

A. Yes, sir.

Q. Some of these wholesalers are handling both magazines and newspapers?

A. Yes.

Q. In making an estimate of his importance you have to take into account his whole business, do you not?

A. Yes, sir.

Q. A man might be the largest wholesaler in a town, taking both magazines and papers, and yet he might not be the largest wholesaler in town just taking one or the other?

A. Yes, sir.

Q. And if you confined it to magazines, then, he might not be as big as another one?

A. Yes, sir.

Q. Do you know what magazines Bovitz started with—what one he had first?

A. Curtis was his first magazine.

Q. And do you know what magazine Moore Brothers started with?

A. Curtis first.

Q. Plainfield is in your district?

A. Yes, sir.

Q. Who is our agent in Plainfield?

A. Mr. William Ormstead.

Q. Do you know with whom he started in the magazine business—with what publishing house?

A. Yes; with the Curtis Publishing Company.

Q. Then, there is another wholesaler there?

A. Yes, sir.

Q. What is his name?

A. Laing.

Q. Did you state that he was the largest wholesaler there?

A. Yes, sir.

Q. With what publishing house did Schwartzbach, at Elizabeth, start in the magazine business?

A. To the best of my knowledge, with the Curtis Publishing Company.

Q. Take Hackensack. How many newspaper wholesalers are there in Hackensack?

A. Three newspaper wholesalers.

Q. And Max Okin is the only magazine wholesaler there?

A. Yes, sir.

Q. He is also a newspaper wholesaler?

A. Yes, sir.

Q. If, in a town, you had two magazine wholesalers of equal size, and any publishing house came and gave one of them one more magazine, that would make that particular one the largest wholesaler, within the terms of these questions which have been asked you?

A. Yes, sir.

Q. Konershane is in Elizabeth?

A. Yes, sir.

Q. And he handles other magazines?

A. Yes, sir.

Q. Schwartzbach is our agent?

A. Yes, sir.

Q. Who is the larger wholesaler there of those two?

A. The largest one in Elizabeth?

Q. Yes.

A. From the basis of the number of magazines they handle?

Q. The general business done?

A. General business—our agent.

Q. Schwartzbach?

A. Yes, sir.

Q. Mr. Tedley, of Red Bank—what magazine did he start with?

A. The Curtis magazines.

Q. There is another newspaper wholesaler there, is there not?

A. Yes, sir.

Q. In Corning, do you know with what publishing house Tobias started?

A. No, sir.

Q. That was not in your district?

A. No, sir.

Q. In Dover, what is the situation—there is no one but Havens and Lansing?

A. Yes, sir.

Q. And Lansing only wholesales the Crowell publications?

A. Yes, sir.

Q. Have you had any difficulty in making these changes you have testified to?

A. None at all.

Q. Are these new agents all under a straight contract?

A. Most of these I have mentioned.

Q. The ones you have changed—you have not had to give any bonus of any kind?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Do they all put up a cash deposit bond in comparison with the number of magazines that they take—is that correct?

A. Yes, sir.

FURTHER RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Who is our district agent at Trenton, N. J.?

A. Grant Castner.

Q. Are there any other magazine wholesalers there?

A. Yes, sir.

Q. What does Castner handle?

A. He is an outside photographer besides being our agent.

Q. And only handles our magazines?

A. Yes, sir; he only handles our magazines.

Q. And there are three other magazine wholesalers?

A. Yes, sir.

Q. Who is the principal wholesaler there?

A. Bennett is the principal wholesaler.

Q. You said our agent at Perth Amboy was Stern?

A. Yes, sir; Arthur Stern.

Q. Are there two other wholesale agents there?

A. Yes, sir.

Q. You testified that Moore Brothers were the largest?

A. Yes, sir.

Q. And who is the other one?

A. Greenspan.

Q. He handles "Munsey" and Crowell?

A. Yes, sir; and papers.

Q. Do you know how long he has handled "Munsey" and Crowell?

A. Crowell to the limit—I do not know how long he could have—when they first placed their agency they had it, and "Munsey" for quite a while—I should say two or three years.

Q. Moore Brothers were in business when the Crowell people went to Greenspan, were they not?

A. Yes, sir.

Q. How many magazine wholesalers are there in New Rochelle?

A. Four magazine wholesalers.

Q. And the American News Company also have a branch there, have they not?

A. They do not have a branch there.

Q. Do they deliver there?

A. Yes, sir.

Q. Who is our agent?

A. J. N. Latker.

Q. Is he a boy?

A. An adult.

Q. What does he handle?

A. Curtis magazines and the "New York Mail."

Q. There are three other magazine wholesalers there?

A. Yes, sir.

By Mr. Daly:

Q. Where are those three other wholesalers?

A. In New Rochelle.

Q. Did we talk about New Rochelle in our cross-examination?

A. I think this is amongst the list of eighteen.

By Mr. Milburn:

Q. There was one question I wanted to ask. My recollection is—I may be in error about it—that in answer to a question asked you said that nine of forty agents handled absolutely nothing but Curtis. If such an answer was made, that is not correct, is it?

A. That is not correct.

Q. If that statement appears in the record it is an error?

A. Yes, sir; it is an error.

Mr. Milburn: That is all.

Mr. Daly: That is everything.

Examiner Moore: Is that the last witness?

Mr. Milburn: That is the last witness.

Examiner Moore: Very well, this hearing will be adjourned until Tuesday, May 7, 1918.

(Whereupon, at 5.05 o'clock P. M., the hearing was adjourned to meet in Baltimore, Md., Tuesday, May 7, 1918.)

BEFORE FEDERAL TRADE COMMISSION.

THE FEDERAL TRADE COMMISSION
v.
THE CURTIS PUBLISHING COMPANY. } Docket No. 15

Room 305, Federal Bldg., Baltimore, Md.
Tuesday, May 7th, 1918, 10.45 A. M.

The above-entitled matter came on for further hearing, pursuant to notice.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission; and
JOSEPH W. WELCH, Esq., and JOHN G. MILBURN, JR., Esq., on behalf of the Curtis Publishing Company.

PROCEEDINGS.

EXAMINER MOORE: Proceed, gentlemen.

MR. WELCH: Mr. Examiner, at the last hearing Mr. Flanders testified that he had five applications for agencies from Lynn, Mass. Mr. Spiess asked Mr. Flanders to produce them. I have them here and we will offer them in evidence in pursuance of that arrangement as a part of Mr. Flanders' testimony, as being produced by him.

EXAMINER MOORE: These papers will be received in evidence without objection.

(The papers referred to were thereupon received in evidence and marked by the stenographer

"Respondent's Exhibits Nos. 13, 14, 15, 16 and 17, respectively, and the same are as follows:)

RESPONDENT'S EXHIBIT No. 13.

"H. O. SWAIN & Co.
141 Munroe Street.
Box No. 298, N. Y. City.

Lynn, Mass., Dec. 1, 1917.

Gentlemen,

Will you kindly advise at once what your proposition is as per your adv. in to-day's item.

Very truly,
(Signed) H. O. SWAIN."

RESPONDENT'S EXHIBIT No. 14.

"HURLEY'S EXPRESS
Beverly, Salem and Lynn

Beverly, Mass. Nov. 24, '17.

Seeing your ad. in 'The Salem News' would say I have an auto truck and am at leisure about half my time. Beverly is two miles from Salem and I go through there twice a day. Am financially capable and can refer you to the best man in town. Have a two ton Autocar. Would like to hear from you.

Yours for business,
(Signed) M. J. HURLEY, Beverly, Mass."

RESPONDENT'S EXHIBIT No. 15.

"Beach Bluff, Mass.
Dec. 6-17.

Box 898
New York City

Gentlemen:

Have been a business man in Lynn for twenty years. Belong to the best club in town, know every

business man here. Have a 1917 Velie for an auto. Am willing to work part or whole time. Have some money. Best of references if wanted. Let me hear your proposition.

Respt. (Signed) C. H. MORRILL.

(Card attached): J. H. Nagle Machine Co., Inc. Have just sold my interest in the concern."

RESPONDENT'S EXHIBIT No. 16.

"35 Baltimore St., Lynn, Mass.

F. W. O. Dec. 2, 1917.

P. O. Box 298,

New York City, N. Y.

Gentlemen:

Ask George Crowley of Crowley's Magazine Agency, N. Y., whether I want you and whether you want me. If he answers 'Yes' to both, I will gladly give you full evidence that he is correct as to the second.

Very truly yours,

(Signed) FRANK W. OSBORNE."

RESPONDENT'S EXHIBIT No. 17.

"NORTH SHORE ADVERTISERS SERVICE COMPANY

Lynn, Mass., December 3, 1917.

Post Office Box 298, New York City, N. Y.

Gentlemen:

Read your advertisement in the Lynn Item regarding a promoter and distributor for your publication. I believe I possess all the essentials you require and furthermore will say I am sure I can successfully represent your house from a distribution standpoint as I have been in the wholesale

news delivery business in this city for the last fifteen years. Trusting that I may be of service to you and that I may be favored with a reply, I beg to remain, Very truly yours,

(Signed) D. F. DOYLE.

715 Western Ave., West Lynn, Mass."

JOHN H. MURPHY, called as a witness on behalf of the respondents, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Murphy, where do you live?

A. Westerly, Rhode Island.

Q. What is your business?

A. Newsdealer and stationer and printer.

Q. Are you the Curtis agent in Westerly?

A. I am.

Q. How long have you been agent for the Curtis Publishing Company?

A. Nine years.

Q. You wholesale their magazines, do you not—is that correct?

A. Yes, sir.

Q. Do you wholesale any other magazines?

A. No.

Q. Do you wholesale any newspapers?

A. No.

Q. In addition to the Curtis work, what did you say your general business was?

A. Stationery and printing and newspapers.

Q. You keep a retail store?

A. Yes, sir.

Q. Who is the magazine wholesaler there at Westerly?

A. A. N. Nash.

Q. Do you know what he wholesales?

A. Why, he has the "Literary Digest," the "Pictorial Review," "Every Week," and he has recently taken on the "Woman's Home Companion."

Q. How about "Hearst's"?

A. He has "Hearst's."

Q. How about the Warner group?

A. He handles them, yes, sir.

Q. How do you distribute these Curtis magazines?

A. Well, we sell them mostly through boys and newsdealers.

Q. You deliver to the newsdealers, do you, in your town?

A. Yes, sir.

Q. How do the boys get them?

A. Some are sent to them and some call at the store.

Q. How many boys have you?

A. About twelve or fourteen.

Q. You report on them every week and on their sales?

A. Yes, sir.

Q. What do they handle?

A. Those boys?

Q. Yes.

A. Nothing but the Curtis papers.

Q. Where did you get them?

A. The boys?

Q. Yes.

A. Why, they came to me through advertising and one boy would bring in another, and then the Curtis roadman comes along, and we get a list from the school teachers and circularize them from the main office.

Q. Is it a permanent staff?

A. The boys?

Q. Yes.

A. They stay pretty well—some boys, some of them have been with me two or three years—they come from the eighth grade up to the second grade in the high school.

Q. And some of them stay a shorter time?

A. Yes, sir.

Q. Do you know the boys individually?

A. Yes, sir

Q. Do you know the parents?

A. Yes.

Q. Where do they sell their magazines?

A. All in the residential districts.

Q. They are all school boys?

A. Yes.

Q. Have you or your boys won any prizes or received any bonuses for sales?

A. Yes; in times past.

Q. Have you ever been asked to handle any of the other magazines?

A. Yes.

Q. But you handle no others now?

A. No.

Q. Did you ever handle any?

A. I was agent for the "New York American" before they changed over to the "Boston American."

Q. That was a newspaper?

A. Yes, a newspaper.

Q. Were you asked to take on "Every Week"?

A. Yes.

Q. When was that?

A. Well, that is probably about the first of April, I should think.

Q. Of this year?

A. Yes.

Q. Nash was in business then, in Westerly?

A. Yes.

Q. Did you take it on?

A. No.

Q. Did you ask the Curtis Publishing Company's permission to do so?

A. No.

Q. Why didn't you take it up?

A. Well, I had enough to do, I thought. That is, I had enough agencies.

Q. Were you asked to handle the "Pictorial Review"?

A. I do not remember any personal solicitation.

Q. Did you receive any letters from them asking you to handle it?

A. Yes; I have received stock letters or form letters.

Q. You did not take that up?

A. No.

Q. Did you ask permission for that?

A. No.

Q. As I understand you, you devote a part of your time to this Curtis business?

A. Yes.

Q. And you have all the magazines you have time to handle?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. If it was not for your other business, you could handle other magazines, could you not?

A. I could, yes.

Q. You would have plenty of time, then, would you not?

A. Yes, if I had nothing else to do.

Q. What letters did you receive from the "Pictorial Review"?

A. I do not remember the contents; I remember them coming in.

Q. When did you get those?

A. Why, it is within a year.

Q. You have no copies of those letters that you received?

A. No; I did not even read them through—some of them.

Q. You do not let your boys handle other magazines, do you?

A. Why, no; I have no occasion to.

Q. You sell nothing but the Curtis publications?

A. That is all.

Q. You know that, do you?

A. Why, no, not entirely.

Q. Well, you are testifying, and I am asking you whether you know these boys, of yourself, handle any other publications?

A. I do not know that positively.

Q. You had a newspaper for a while?

A. Yes, sir.

Q. You gave that up, did you?

A. They changed over—the Hearst people established the "Boston American." When they went to Boston, I gave up the New York agency, because they cut them out.

Q. Did the boys sell the papers?

A. I was not agent for the Hearst people at the time; that was some years ago.

Q. Do you mean Curtis or Hearst?

A. Hearst owned the "American," but when I had the "New York American" I did not have the Curtis publications.

Q. How many master salesmen have you had in your experience there?

A. Not any.

MR. DALY: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. Have those boys ever handled anything else for you?

A. No.

Q. Have you seen them selling papers around?

A. No, sir.

Q. What is your impression of what they do?

A. That is my impression, that they sell nothing else.

MR. WELCH: Nothing else but what?

THE WITNESS: Curtis publications; the three Curtis publications.

JOHN L. THOMAS, called as a witness on behalf of the respondent, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Thomas, where do you live?

A. Baltimore.

Q. Are you associated with the Curtis Publishing Company?

A. Yes.

Q. Whereabouts?

A. My office, you mean?

Q. Are you the Baltimore agent?

A. Yes.

Q. Were you agent for them anywhere else before you took the Baltimore agency?

A. Newport News, Virginia.

Q. How long were you there?

A. I came to Baltimore in 1917—February 5th.

Q. How long ago were you agent at Newport News?

A. Sir?

Q. When did you begin the agency in Newport News?

A. August, 1914.

Q. When did you move?

A. February 5, 1917.

Q. You are now the Curtis agent in Baltimore, is that correct?

A. Yes.

Q. Do you handle anything besides the Curtis publications?

A. Hearst.

Q. What magazine did you begin with?

A. With the Curtis.

Q. And you have subsequently taken on Hearst's —is that correct?

A. Yes, sir.

Q. Have you any other business?

A. I handle the "Public Ledger."

Q. That is a newspaper?

A. Yes, sir.

Q. Have you a retail store?

A. No, sir.

Q. Just a wholesale store?

A. Yes, sir; just a wholesale store.

Q. Is there another magazine wholesaler there?

A. Yes, sir.

Q. What is his name?

A. H. P. Kahn, and a branch of the American News Company?

Q. That is two?

A. Yes, sir; there is another boy that handles "Every Week"—the "Baltimore News" here handles the "Every Week" through the boys, and F. K. Wilson is the circulation manager of the News Company.

Q. How many is that all told—I am somewhat confused?

A. F. K. Wilson, the "Baltimore News" and H. P. Kahn; also Clarence Grape handles the "American Magazine" and the "Woman's Home Companion" with the boys.

Q. What does Kahn handle?

A. "Munsey's," "Pictorial" and "Digest," the "Mid-Week Pictorial," and the Warner publications.

Q. You mean at wholesale?

A. Yes, sir; he has a stationery business also.

Q. Have you any boys working under you?

A. Yes, sir; about 350.

Q. Were they turned over to you when you took the Baltimore agency?

A. Yes, sir, about 200.

Q. That is, by the Curtis people?

A. By the former agent.

Q. And now you have about 350?

A. Yes, sir.

Q. Has the Curtis Publishing Company co-operated with you in getting them?

A. Yes, sir; by advertisements in the papers, and by sending free copies cards, and one boy will bring in another boy—friends.

Q. Have you done any work with the boys in instructing them?

A. Yes, sir; I have had meetings at the Y. M. C. A. and meetings at the Boys' Home.

Q. You know these boys personally?

A. Some of them—of course, I do not know them all.

Q. Have you won any bonuses or prizes?

A. Yes, sir.

Q. Any material amount?

A. Not so much since I have been in Baltimore, but when I was in Newport News I won two or three hundred dollars.

Q. So that bonus or prize is a material compensation?

A. Yes, sir.

Q. Were you ever asked to handle the "Pictorial"?

A. Yes, sir.

Q. Under what circumstances and when?

A. On February 22, I think it was, 1917, Mr. Korb came to my office and asked me to handle "Pictorial."

Q. Shortly after you came here?

A. About three weeks after I came to Baltimore.

Q. And these other concerns were doing business here then, wholesaling?

A. Yes, sir.

Q. How did he ask you to handle the papers?

A. He asked me how I would like to have it, and I said if the company would let me have it; I said it would be all right, and he asked me to wire them and ask them and I did so and was refused.

Q. Was anything said about Shaeffer?

A. Yes; he said after I got the wire back, he did not see why I could not have it because Shaeffer at Pittsburgh had it, and Krouse at Cleveland handled it.

Q. Was anything said about boys?

A. Boys handling it?

Q. Yes.

A. He said he would expect if the boys wanted any copies, to let them have them.

Q. Are you under the new contract?

A. Yes, sir.

Q. Did you have your bond increased under that —when do you pay for your magazines now?

A. Friday night, but the papers go on sale Thursday.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How long were you at Newport News?

A. That is my home, I was born there.

Q. How long were you the Curtis agent there?

A. From 1914 to 1917—February 5th.

Q. When did you come to Baltimore?

A. February 5th, 1917.

Q. Now, why did you come to Baltimore to take this agency?

A. Sir?

Q. Why did you come to Baltimore to take this agency?

A. Well, it was offered to me and I thought it was a better proposition than I had there, and so I took it.

Q. When was it offered to you?

A. When?

Q. Yes.

A. Last November.

Q. When?

A. Last November a year ago.

Q. 1916?

A. Yes, sir.

Q. When did you come?

A. On February 5th, 1917.

Q. Did you have more than one offer?

A. Sir?

Q. Did you get more than one offer of this agency or not?

A. Mr. Baker, he was—no; he had been handling Newport News and Norfolk and down in there, and he knew me down in there, and he was promoted to take city promotion work, and Mr. Baker——

Q. Just answer the question—how many offers did

you have? How long did it take them to get you up here?

A. They did not want to give it to me at first. They offered it once, as far as that goes, after it was really offered me. It was given to me in February.

Q. Did Baker state to you why they wanted you to come here?

A. Well——

Q. Baker was their representative, was he not?

A. He did not say why he wanted to give it to me; he asked me how I would like to have it. He is a personal friend of mine.

Q. He never said anything about it except he wanted you to have it?

A. He just wrote me a friendly letter and asked me how I would like to have the agency in Baltimore.

Q. Did he write you more than one letter?

A. Baker, you mean?

Q. Yes.

A. Well, I cannot say that he did. Some time in November he sent me a letter asking how I would like it, and asked me to wire back.

Q. Did you wire him?

A. I did.

Q. What did you tell him?

A. I said I would like to have it.

Q. You got here in February, after that?

A. Yes, sir.

Q. Who was the agent who was here?

A. The agent for the Curtis people?

Q. Yes.

A. W. C. Graves.

Q. Did Graves see you about coming here?

A. He wrote a couple of letters.

Q. He asked you to come here, too?

A. He asked me to find out about the other maga-

zines; that I could not make a living off the Curtis papers.

Q. Then you began to feel out, in order to get other magazines, did you not?

A. I wrote to Hearst and Frank A. Munsey to see if they would care to chance the agency.

Q. Why did Graves change?

A. I do not know.

Q. He did not state in his letter to you?

A. No.

Q. Who was Graves?

A. He was the agent here.

Q. What else did he do?

A. What do you mean—here in Baltimore?

Q. Yes.

A. He was the only agent—that is all I knew him to do.

Q. Was he not roadman, as well?

A. Mr. Guthrie told me he had been a former roadman.

Q. Following that, you asked for the "Pictorial Review"?

A. I had a letter sent me in Newport News, Virginia, by Mr. McKinnon, where I formerly worked, asking me how I would like to have the agency there.

Q. When was that?

A. I got the letter after I got back up here.

Q. You wrote this letter, did you not, on February 16th, 1917?

A. Yes, sir.

Q. And you were trying to get these other magazines, as you have testified?

A. Sir?

Q. And you were trying to take on other magazines, were you not?

A. Yes, sir.

Q. Why were you trying to get these other magazines?

A. In order to make some more money out of it.

Q. More money, was it not?

A. Yes, sir.

Q. And you could have handled these magazines, could you not?

A. I could have handled them, yes, sir.

Q. Without interfering with your business, and you could now, could you not?

A. I think so.

Q. And you could have handled what other paper was it, or what paper did you try to get?

A. "Munsey's Magazine."

Q. You could have handled them?

A. Yes, sir.

Q. And circulated them throughout this community properly?

A. To the dealers, yes, sir.

Q. In a wholesale way?

A. Yes, sir, that was a form letter sent to me at Newport News.

Q. You have testified to that.

MR. DALY: I offer this letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 18," and the same is as follows:)

RESPONDENT'S EXHIBIT No. 18.

"DAILY PRESS
Morning,
TIMES-HERALD
Afternoon
Balto., Md., February 16, 1917.

The Pictorial Review Co.
New York, N. Y.

Gentlemen:

Your letter of the 13th to hand and beg to

state that I am not in Newport News, Va., any more but am in Baltimore, Md., and am wholesaling the Curtis Publishing Company's publications. Let me hear from you in regard to your Baltimore agency by return mail, as I am very much interested in it, as I tried to get your agency while in Newport News.

Hoping that I may receive your most favorable reply by return mail, I beg to remain,

Yours very truly,

J. L. THOMAS,

7 Clay St., Baltimore, Md."

By MR. DALY:

Q. Korb came on the 22d of February and asked you to take it off?

A. Yes, sir.

Q. Representing the "Pictorial Review"?

A. Yes, sir.

Q. Do you remember a conversation you had with Mr. Korb in reference to it?

A. Just asked me——

Q. You gave the reason why you wanted to get the other magazines?

A. He asked me to take it; I did not ask for it.

Q. What reason did you have for wanting these papers—what reason did you give to Korb?

MR. MILBURN: I object to that; he said Korb asked him to take them.

THE WITNESS: I did not say anything to Mr. Korb.

By MR. DALY:

Q. What is that?

A. I did not send for Mr. Korb, but he came to my office.

Q. Mr. Graves saw you first, did he not, and solicited you to take on the paper?

A. Whose paper—the "Post"?

Q. Yes.

A. Mr. Baker saw me first.

Q. And he asked you to take on the "Post"?

A. Yes, sir.

Q. Now, Mr. Graves saw you and asked you to take on the "Pictorial Review"?

A. No, sir; he was not working for the "Pictorial Review" at that time.

Q. Graves never saw you at all about the "Pictorial Review"?

A. After he started to work for them he came back and said it was a shame I could not take it, that he had gone South and had placed it with a number of Curtis agents.

Q. Who said that?

A. Graves, after he started to work for the "Pictorial."

Q. He saw you before that?

A. Not about the "Pictorial"; he did not have anything to do with the "Pictorial" at that time.

Q. When Korb saw you, you talked over the situation?

A. Certainly.

Q. Did you not state to Korb in Baltimore at the time he saw you and you have testified about, that it would be very advantageous to you in your business if you could take on these papers—take on the "Pictorial Review"?

A. I thought if I could handle it and make some more money, it would increase my business.

Q. You told Korb that?

A. Sir?

Q. You told Korb that in your interview?

A. I told him if the company would allow me to handle it, I would do so.

Q. Just answer the question—did you not say to Korb that it would be very helpful to you to take on the "Pictorial Review"?

A. Sir?

Q. Or similar words?

A. I told him if the company would let me have it, I would take it.

Q. I am asking you to answer this question—did you or not tell Korb in this conversation you have spoken about in Baltimore, that if you could take on these other magazines it would be very advantageous to your business, or words to that effect?

A. I do not know that I told him that; of course, it would help; you would know that yourself.

Q. Did you tell him or not—say yes or no.

A. No.

Q. Now, Korb came after you wrote this letter, did he not?

A. Yes.

Q. Now, you handle the "Public Ledger"; when did you take that on?

A. August 5th, 1917.

Q. When did you take on "Pearson's"?

A. Sir?

Q. When did you take on "Pearson's Magazine"?

A. "Pearson's"? I took that on about three months after I was here.

Q. When did you take on "Hearst's"?

A. December 29th, 1917.

Q. And all of them were taken on after you were refused permission to handle the "Pictorial Review"—is that correct?

A. Yes, sir.

Q. How many of these boys do you know, Mr. Thomas?

A. How many do I know?

Q. Yes.

A. Well, I do not know the names of all of them; of course I know them when I see them. I know personally over half of them, and the parents of over half of them.

Q. You know the names of all of them?

A. Yes, sir.

Q. How many do you report to the office?

A. All of them.

Q. Have any of these boys ever requested you to let them take out and buy any other magazines?

A. No, sir.

Q. They always asked for "The Saturday Evening Post" or "The Ladies' Home Journal" or "The Country Gentleman"?

A. Yes, sir.

Q. Nothing else?

A. No, sir.

Q. What boys handle the "Public Ledger"?

A. I have about four boys.

Q. They are not in this 350?

A. Yes, sir.

Q. What is that?

A. Yes, sir.

Q. I think I asked this question, but I will ask it again: Did these boys ever ask you to sell them other magazines?

A. Sir?

Q. Did any of these boys ever ask you to sell them any other magazines?

A. Yes; I have four or five boys that get one "Collier's," or one or two "Hearst's," or something like that—I never asked them to handle it.

Q. I asked you if they asked you to sell it to them?

A. Yes, sir.

Q. What do you do when they ask for other magazines—do you give it to them?

A. Yes, sir.

Q. You sell it to them?

A. Yes, sir.

Q. To these Curtis boys?

A. Certainly.

Q. Do you know how long Mr. Graves was the agent here?

A. No, sir.

Q. Do you know whether or not Mr. Graves was a salaried man for the Curtis Publishing Company?

A. No, sir.

Q. Do these boys all report to you and get their magazines from you?

A. No, sir; I have sub-agents.

Q. How many of them get the magazines from these sub-agents?

A. Sir?

Q. How many of them get their magazines from these sub-agents?

A. I could not say off-handed because——

Q. How many get them from you?

A. I guess about half of them.

Q. How frequently do you see this other half?

A. The other half?

Q. I mean how many times do you see the boys who get their magazines from the sub-agents?

A. About once every three months.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You said, I think, four or five boys may ask you for copies of "Collier's Magazine," and you would give it to them and they would deliver it.

A. Yes, sir.

Q. Does that happen often—how many of the boys carry other magazines?

A. Very few—about half a dozen of them.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Did you come up here as a salaried man?

A. I came up here as that, yes, sir.

WILLIAM SMITH, called as a witness on behalf of the Respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Smith?

A. Washington, D. C.

Q. And are you the Curtis district agent there?

A. Since 1903; yes, sir.

Q. Have you any other business than that?

A. Yes, sir; I have other lines.

Q. What are they?

A. Newspapers and other magazines.

Q. That is retail, is it not?

A. Retail and wholesale, too.

Q. You wholesale other magazines?

A. Yes; I supply the White House and a lot of Government buildings with newspapers and magazines.

Q. What is the first magazine you wholesaled?

A. "The Saturday Evening Post"; in 1890 I started selling them.

Q. Are there any other magazine wholesalers in Washington?

A. Yes, sir; the Washington News Company, a

branch of the American News Company, and Mr. Powers.

Q. What does he handle?

A. The "Pictorial Review," the "Literary Digest," and some others; also the "Collier's."

Q. How long have you been there?

A. He has been there all his life.

Q. Do you distribute these magazines through boys?

A. Yes; I distribute them to boys, news dealers, hotels and everywhere.

Q. How many boys do you report to the Curtis Publishing Company?

A. I have a list of about—it varies—it runs sometimes as high as 400.

Q. About what is it now?

A. Well, a lot of our boys have started to work for the Government, the Food Commission, and different war bureaus. It runs about 300 now, I guess.

Q. How did you get these boys?

A. Why, the Curtis Publishing Company solicited them and advertised and started them in, giving free copies and made them offers of prizes, et cetera, and wrote to their parents and got a list of names from the schools, and so forth.

Q. They co-operated with you in building them up?

A. Yes, sir; and got them through the Y. M. C. A., and other places.

Q. You had meetings with them?

A. Yes, sir.

Q. Have you won any prizes or gotten bonuses?

A. Yes, sir; I have made a small fortune that way.

Q. What?

A. I have won, in prizes alone, pretty nearly $3000, and have won a big bonus every week for a long term or periods.

Q. Have your boys won prizes or bonuses?

A. Yes, sir; the Washington boys all have won hundreds of dollars.

Q. Have these boys permanent customers that they sell to?

A. Yes, sir; weekly trade on the "Post" and "Country Gentleman," and monthly trade on "The Ladies' Home Journal." They are school boys and come from some of the best families. I have congressmen and senators' boys who serve the magazines.

Q. They deliver throughout the district?

A. Yes, sir.

Q. You said you had Y. M. C. A. meetings, did you?

A. Yes, sir; in the Y. M. C. A.; a lot of our boys have memberships in the Y. M. C. A., which the Curtis Publishing Company have given for selling a certain amount of copies and encouraging them to take up studies there in different courses.

Q. Has the company ever, to your knowledge, helped them to get jobs when they leave?

A. Yes, sir; several have gotten jobs; one of them through the recommendation of the Curtis Publishing Company has secured a position with the United States Consul in London, as a clerk.

Q. Have you ever been asked to handle "Every Week"?

A. At one time there was a man who came in the office; I was not there and he only came once.

Q. You did not take it up?

A. No, sir.

Q. Did you take it up with the Curtis Publishing Company at all?

A. No, sir; I did not mention it at all.

Q. Were you asked to handle the "Pictorial Review"?

A. Yes, sir; several times. One time Mr. Korb came to my office and wanted me to do some special work for the "Pictorial Review," and wanted me to

take some copies from the Washington News Company and get my boys, who were selling "The Saturday Evening Post" and "The Ladies' Home Journal," to try them out, but I did not care much about that. I would have only for the news dealers, but not for the boys.

Q. Did you handle it at all?

A. No, sir.

Q. Did you have any other talk about taking it on?

A. He came in again later. I had several letters from the Circulation Manager of the "Pictorial Review," and he came in later and told me that Mr. Shaeffer, of Pittsburgh, and Mr. Krouse—Scott Krouse, of some other city, and some others had gotten permission to handle it, and he did not see why I did not attempt to get the same. I took it up with the home office, and Mr. Korb sent me a letter stating about these different agents who had gotten permission.

Q. Is that the letter (exhibiting to witness)?

A. Yes, sir.

MR. MILBURN: I offer that in evidence.

(The letter referred to was thereupon received in evidence and marked "Respondent's Exhibit No. 19," and the same is as follows):

RESPONDENT'S EXHIBIT No. 19.

"3/11/17.

Mr. Wm. Smith—Dear Smith:

I take the liberty of writing you these few lines, one reason I have failed to hear from you about taking over my agency—second some pretty good news.

Agents like Scott Krauss, Columbus, every dealer in Boston section have been sanctioned the right to handle Pictorial Review, why let them hold back on you. Wire for your own information Suburban Newsdealers Assn., Geo. Martin, Boston,

Mass., and verify my statement. Don't let them hold the gun up to your head. Now is the time to get in line as the Capitol City News Co. and not William Smith the Curtis agent.

I would appreciate a line from you as I always figured you were with me tooth and nail the day I broke away from News Co. Remember you saying give me all and I will show you results. Well old pal here is my all, so why leave me cold.

Thanking you for your past co-operation and courtesies

I am,

Sincerely,

Martin Korb, Hotel Henry,
Pittsburg, Pa.

EXTRA

Curtis backed up in Boston gave consent to Reiser, Nuschera, Goldsmith, Salem, Fall River, Brockton, etc., etc. That's what they do when dealers stick and say we resign. Get together; stand pat and win out.

Korb."

By MR. MILBURN:

Q. Was anything said to you by Mr. Korb about the handling of "Pictorial Review" in your wife's name?

A. Before I had a chance to refuse it, it was offered to me with the suggestion that I could get it in my sister-in-law's or my wife's, or in the name of a couple of men who worked around the office.

Q. You were originally a "Post" boy?

A. Yes, I sold myself.

Q. That was some time ago?

A. Yes; I started when I was about eight years old, selling newspapers, and later on sold magazines, and so forth.

Q. At the time you speak of, when you were asked to handle "Every Week" and "Pictorial Review," was Powers in business at that time?

A. I was not asked to handle "Every Week" because I was not there when the man came, but I was asked to handle the "Pictorial Review."

Q. Was Mr. Powers in business then?

A. Yes, sir; Mr. Powers had been in business quite a little while.

Q. You are under the new contract, are you?

A. Yes; I outgrew the business requirements of the old contract, by having so much increased sales, and so forth, that it required a new contract. The new contract is much better.

MR. MILBURN: That is all, unless Mr. Daly wants to ask you about that.

CROSS-EXAMINATION.

By MR. DALY:

Q. When do you remit under the new contract?

A. My remittances have to be in there within a week after I get the copies.

Q. You wait, do you, until you get in the returns from the retailer—is that correct?

A. No, sir; I guess I have—I do not know whether my system is the same as anybody else's——

Q. I just want to know about your system.

A. I make it a point to send the cash each week so that I will not have too much of a balance.

Q. You do not wait for the retailers to settle up?

A. I have a regular day for sending in my check.

Q. You do not wait?

A. I cannot wait on the retailers because some have weekly arrangements, and some on delivery, and some run monthly accounts.

Q. You send your check every week just the same?

A. Yes, sir.

Q. Korb saw you a number of times, as a matter of fact, did he not?

A. Yes, sir.

Q. And Korb called to see you when he came to Washington?

A. Yes, sir.

Q. And then he wrote you a letter, March 11th, 1917, wanting you to take on his paper?

A. No, sir; that letter simply refers to some facts he had told me previously.

Q. He told you about this?

A. Yes, sir.

Q. He says here, near the close of the letter—"Remember you saying, 'give me all and I will show you results' "—what did you mean by that?

A. I did not think much about using the Curtis boys, but I did think better of going about the newsdealers.

Q. You had no idea of going after the Curtis boys?

A. That was the only way the proposition was at first put to me.

Q. As a matter of fact, you telephoned and asked for the "Pictorial Review"?

A. For the newsdealers.

Q. You also wired, did you not?

A. I do not know about telephoning or wiring, but when they started to give out the different agencies, after I got this letter—

Q. What?

A. I got this letter——

Q. You could have handled it in Washington satisfactorily?

A. As to the newsdealers; yes, sir.

Q. You say Powers is there, and the News Company is there?

A. Yes, sir.

Q. As a matter of fact, you are the leading magazine distributor, are you not?

A. No, sir; I rank about third.

Q. What magazines do you distribute?

A. Simply the Curtis and Hearst's magazines, and Washington News Company——

Q. You handle all newspapers?

A. A few New York evening papers.

Q. Leaving out the Washington News Company, you are the leading man there, are you not?

A. No, sir; Mr. Powers has more magazines than I have.

Q. At that time—I am speaking now of the time Korb and the "Pictorial Review" people were trying to get you to take on their magazines?

A. At that time he had more.

Q. What were they?

A. Some did not amount to much, but he had "Collier's" and "Jim Jam Jems," and a whole line of others.

Q. They did not amount to much, did they—you do not want them, do you?

A. Each had a certain amount of sales.

Q. Now, what did you tell him about the Washington News Company? You had a conversation with him, did you not, on one of these visits as to the relative merits of your way of doing business and that of the Washington News Company?

A. I only told him with reference to the dealers, that I delivered to the dealers free, and the Washington News Company charged them fifty cents a week.

Q. Now, you told Korb what you could do, if you had this magazine, did you not?

A. I told him——

Q. Relative to the circulation of "Pictorial Review"?

A. I told him—this was all before I had any communication with the Curtis Publishing Company.

Q. I am talking about Korb now. You ask what the News Company's business was with them.

A. I said I could put it on the stands and promote a big sales for them.

Q. You asked how many the News Company handled, did you not?

A. No, sir.

Q. Did you or not ask him in one of these conversations in your city as to the number of magazines that the News Company handled?

A. Yes, sir; he told me, but Mr. Korb was not talking about the News Company or about newsdealers; he wanted me to put the "Pictorial Review" around through the Curtis boys. That was what he was after.

Q. That is not what I am asking you, though.

A. Yes, sir.

Q. I am asking you what you said about the News Company first.

A. He brought the subject of the News Company up first in this matter. He wanted me to get so many "Pictorial Reviews" from the News Company and sell through the Curtis boys.

Q. He told you how many magazines they handled for them?

A. Yes, sir; at the time.

Q. Now, what did you tell him about what you could do for them?

A. He told me about what they were drawing for newsdealers' sales and I told him that if I had the authority to take up the magazine, that I thought and knew I could do better.

Q. You could double the sales, as a matter of fact, could you not?

A. I did not say double the sales.

Q. You deny at that time in Washington saying that you could double the sales?

A. I said I could build up the sales.

Q. Now, how many dealers do you supply, Mr. Smith?

A. Over four hundred.

Q. How do you get your magazines out to them?

A. Automobile delivery.

Q. Do you know how many the News Company supplies?

A. I guess the same amount.

Q. Do you know that?

A. They supply more because they go into the suburbs a little further than I do.

Q. I am speaking about the city.

A. Well, Washington, D. C., suburbs are practically all in one.

Q. Where were you going to increase this "Pictorial Review" circulation—among what class of people?

A. I was not increasing it among the class of people; it was amongst the dealers.

Q. You expected to increase it through these dealers—is that correct?

A. Yes, sir.

Q. Now, you say that the News Company covers all these dealers—is that correct?

A. Yes, sir.

Q. How could you increase the circulation under those circumstances?

A. I think— am sure Mr. Korb offered me a proposition of making the magazines returnable, and at that time the News Company was not making it returnable. I do not know for sure, but that is one of the ideas I had.

Q. That is one of the ideas?

A. Yes, sir.

Q. How would that increase the circulation?

A. It gives the dealer a chance to take more copies and have more sales. If the magazine is not returnable he will not take so many. He will play safe and sell out.

Q. Do you know whether or not the News Company was fully returnable at that time?

A. I do not remember now; no, sir.

Q. How could you tell that you were going to increase the circulation?

A. That would be one of my propositions, to make it returnable.

Q. If the News Company was returnable, too, would—what difference would it make?

A. I am not positive, but I do not think it was returnable with them at that time.

Q. Did you or not state to Korb on that occasion that you were supplying more retailers than the News Company?

A. No, sir; I do not think I did.

Q. How many of these dealers are buying all their magazines from you and not the News Company—none from the News Company?

A. Very few.

Q. How many?

A. The News Company——

Q. Never mind now.

MR. MILBURN: Let him answer, Mr. Daly.

MR. DALY: He goes off on something else and does not answer the question. All I want him to do is to answer the question.

By MR. DALY:

Q. Name those dealers that are dealing with you and not with the News Company?

A. There are some few dealers that I started in

with, like fruit stands, drug stores that never handled any magazines, and that did not handle enough to pay the cartage charges that the News Company charged them with.

Q. You reach them, do you?

A. Yes, sir.

Q. How does the man at the Union Station get his magazines, and the man at the front of the Treasury?

A. They have a special permit to handle magazines and they get them from both of us and from Mr. Powers also.

Q. How does the News Company get their magazines to him?

A. Like the rest, I suppose—send them over in wagons.

Q. Do you know that?

A. No, sir; I do not know that positively.

Q. Now, you said you made a fortune out of bonuses.

A. I did not say out of bonuses alone.

Q. What is that?

A. Bonuses, prizes, commissions and salary.

Q. You are on a salary?

A. I make a salary at times, when on special work, increasing—building up.

Q. When does that happen?

A. Whenever the offer happens, which is quite frequently.

Q. You go out and hustle the magazines among the boys?

A. No, sir; the company makes offers to the boys and we also make offers to the boys.

Q. That benefits you, does it?

A. Yes, sir.

Q. The boys do the work, however, do they not?

A. We do a certain amount of work, too.

Q. Of course, you engineer it, I suppose?

A. No, sir; we have a lot of detail work making out reports and holding meetings; the Curtis roadman comes down every month and holds meetings, too.

Q. And the boys sell the magazines?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Does Powers reach the retailers that you reach?

A. Yes, sir.

Q. You spoke about some dealers that you had built up—fruit stands and other small dealers like that. Are there many of them?

A. Yes, sir; quite a few.

Q. You also said that you had a salary attached at times. By that you mean these bonuses?

A. Yes, sir, if you get a certain amount each week you get a bonus. It was not a certain amount, but the more you increased the more you got.

WALTER LAWRENCE HARRIS was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, and testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Harris, where do you live?

A. Ellwood City.

Q. You handle the Curtis magazines as Curtis agent?

A. Yes, sir.

Q. How long have you been Curtis agent?

A. Since September 15, 1913.

Q. Do you handle any other magazines at all?

A. I retail other magazines, but the Curtis publications are the only ones I wholesale.

Q. What is your other business?

A. Stationery, magazines and sporting goods.

Q. The Curtis magazines are the only ones you wholesale?

A. The only publications I wholesale.

Q. Were you asked to handle the "Pictorial Review" or "Every Week"?

A. I had their form letters asking me to handle their publications.

Q. How do you distribute the Curtis magazines?

A. I have just the one dealer, and I send his copies around by a boy, and the others I sell direct to the boys.

Q. How many boys have you?

A. I have just about six or eight boys.

Q. No other magazines, as a matter of fact, are wholesaled at all in Ellwood City?

A. No, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You were not solicited to handle the "Pictorial Review" in a wholesale way, were you?

A. I do not remember whether the letter offered me the wholesale agency or whether they just wanted to do business with me, so I could handle them in a retail way.

Q. You drew thirty copies direct on retail, did you not?

A. I did draw some on retail; yes, sir.

Q. Up to July 17th?

A. One or two issues—I do not remember now.

Q. Where did you get your magazines after that?

A. From the Treadwell News Company at Newcastle.

Q. Why did you switch?

A. I found I could get just as good service from them, and I was getting some other magazines from them, and it allowed me to do away with one account.

Q. Did the Curtis Publishing Company object to your handling these magazines?

A. They do not ask you to get permission from them to retail magazines. At that time I wanted to retail "Pictorial Review."

Q. Did they object to your handling it at all?

A. No, sir; not in a retail way.

MR. DALY: That is all.

WILLIAM SMITH was recalled, and testified further as follows:

CROSS-EXAMINATION (Continued).

By MR. DALY:

Q. Did you testify that you took the matter of handling the "Pictorial Review" up with the Curtis Publishing Company?

A. Just about that time there was something that happened about the different—some agents in regard to this letter that they had agreed to handle the "Pictorial Review."

Q. Why not answer my question?

A. Yes, that leads up to the question.

Q. Just answer what I asked.

A. Some of the agents, according to Mr. Korb, had offered to take the "Pictorial Review."

MR. DALY: I ask that that be stricken out.

EXAMINER MOORE: What is the question?

MR. DALY: I asked if he took up the matter with the Curtis Publishing Company about handling the "Pictorial Review."

THE WITNESS: Yes, sir; I took it up with them.

By MR. DALY:

Q. What did you say about it?

A. I took up particularly the handling of "Pictorial Review" with the boys, because I thought myself that that business of taking the boys——

MR. DALY: Just a moment; just answer that question.

THE WITNESS: I thought it was a kind of a mean thing——

MR. DALY: I ask that that be stricken out. I want an answer to the question and that is all. That is not an answer.

THE WITNESS: I wrote for information, to the Curtis Publishing Company. I wanted to know whether they would give anybody any right, after they had spent a lot of money to get these boys, to use——

MR. MILBURN: Can you not answer whether permission was refused?

THE WITNESS: Yes, sir.

MR. MILBURN: Then say that.

THE WITNESS: Yes, sir.

MR. DALY: I ask that that part be stricken out.

EXAMINER MOORE: That is stricken out.

By MR. DALY:

Q. You never wrote any letter to the Curtis Publishing Company, did you?

A. I said I asked for information.

Q. You said you wrote a letter.

A. There were letters later, too.

MR. MILBURN: Here they are if you want them (exhibiting letters).

MR. DALY: That is all right. That is all, Mr. Smith.

L. H. KIMBROUGH, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Kimbrough?

A. Richmond, Virginia.

Q. Are you the Curtis district agent there?

A. Yes, sir.

Q. How long have you been connected with th Curtis Publishing Company?

A. About seven and a half years.

Q. Is that as district agent?

A. Yes, sir.

Q. Had you ever sold it before that?

A. I formerly sold them as a boy; yes, sir.

Q. And then you worked up and finally became district agent?

A. Yes, sir.

Q. You have been there since 1911—is that correct?

A. Yes, sir; as district agent since 1911.

Q. What is your other business?

A. Publishing.

Q. Do you handle any other magazines in a wholesale way?

A. No, sir.

Q. Or newspapers?

A. No, sir.

Q. Is there a magazine wholesaler in Richmond?

A. Two of them.

Q. Who are they?

A. The Richmond News Company and L. P. L. Levy and Company.

Q. Do you know what Levy handles?

A. I have always taken it for granted he handles the majority of them. I know he distributes the Hearst publications.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. What did you do about it?

A. Well, I told the gentleman that approached me I did not care much about it, but I would confer with the Curtis Publishing Company and ask them.

Q. You were asked to handle it by the "Pictorial Review" people?

A. They said they wanted to get away from the American News Company and would turn their store business over to me if I would permit the sales with the boys, and I said I would refer the matter to the Curtis Publishing Company.

Q. Those are the only boys you have?

A. Yes, sir.

Q. You distribute magazines through these boys?

A. Yes, sir; the Curtis publications.

Q. And they handle only Curtis publications?

A. As far as I know.

Q. Did you have a conversation with Mr. Korb about it?

A. I do not recall what the gentleman's name was, but I think that is the gentleman sitting there (indicating Mr. Korb).

Q. Did you have any talk with Mr. Korb or did Mr. Korb say anything to you about other Curtis agents handling "Pictorial Review"?

A. Yes; he said that there was no objection on the part of the company, because Smith at Washington, and Shafer at Pittsburgh, were handling the "Pictorial Review."

Q. Was anything said about your brother?

A. He did suggest that I could do that.

Q. What do you mean "could do that"?

A. That I could have taken the agency in somebody else's name.

Q. How many boys have you?

A. Well, it runs on an average of around one hundred.

Q. Are they a pretty permanent body?

A. They keep at a pretty permanent figure of about one hundred. I have one boy who was selling before I was district agent, and he is still selling, and others come and go, and last two or three years or a few weeks, and that is about the way it works out.

Q. They have permanent customers or routes?

A. Yes, sir.

Q. What kind of boys are they—where do you get them?

A. Most of them from school lists and advertisements inserted in the papers, asking for nice, clean boys.

Q. Most of them are school boys?

A. Yes, sir.

Q. Have you done any work instructing them or holding meetings with them?

A. Yes, sir; I have held meetings with them, and often they come and ask me where they can get customers, and I tell them the best I know how.

Q. And do you do some Y. M. C. A. work?

A. We have meetings with the Y. M. C. A., and the Y. M. C. A. has co-operated with us and loaned us their swimming pool.

Q. Have you received anything by way of prizes or bonuses?

A. Yes, sir.

Q. At the time you were asked by Mr. Korb to take on the "Pictorial Review," was Levy doing business in your town at that time?

A. Yes, sir.

Q. He was the main magazine wholesaler there, was he not?

A. He is larger than I am.

Q. You are now under the new contract?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. You got a letter from the "Pictorial Review" with reference to selling "Pictorial Review" to boys?

A. No, sir; I do not think I did.

Q. You got another one——

A. I said I do not think I got any.

Q. Did you get any letter stating they did not want to use your boys?

A. Not that I recall.

Q. As a matter of fact, Korb talked to you about the pattern agency, did he not?

A. The "Pictorial Review" agency?

Q. Yes; supplying to their pattern agents their magazines?

A. He may have included the pattern dealers in his talks, but I inferred from his conversation that I would take all the dealers.

Q. When was this?

A. I think this was about this time last year. I will not be certain about that.

Q. As a matter of fact, do you know that the "Pictorial Review" had an agent handling their magazines——

A. When?

Q. The first of April last year.

A. No, sir; I inferred from Korb's conversation that it was handled by the Richmond News Agency.

Q. That is a branch of the American News Agency?

A. A branch of the American News Company; yes, sir.

MR. DALY: That is all.

RAYMOND B. PEARCE, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Pearce, where do you live?

A. 'Greensboro, North Carolina.

Q. What do you do there?

A. I attend the high school.

Q. Are you also a Curtis agent?

A. Yes, sir.

Q. How long have you been agent there?

A. Just one year this month.

Q. Did you sell Curtis papers before then?

A. No, sir; my brother had the agency and I was in the home and saw how it was handled.

Q. Do you distribute the magazines through boys?

A. Yes, sir.

Q. How many of them have you?

A. About sixteen regularly.

Q. You take personal supervision over their work?

A. Yes, sir.

Q. What are they—schoolboys?

A. All of them are schoolboys.

Q. Do they have regular customers throughout the town?

A. Yes, sir; and deliver them every Thursday after school.

Q. Are there any dealers in town?

A. Yes, sir.

Q. How do you deliver to them?

A. By Ford truck.

Q. Do you handle anything but the Curtis magazines?

A. No, sir.

Q. Nothing else?

A. No, sir.

Q. Is there any other wholesaler in Greensboro?

A. Yes, sir.

Q. Who is he?

A. J. B. Leathers & Company.

Q. Does he handle other magazines?

A. Yes, sir.

Q. Is he the only one?

A. Except the Union Newspaper Company; and they do not distribute to any, I do not think.

Q. How long has the other wholesaler been there?

A. J. B. Leathers Company has not been there very long. He bought out Dixies's cigar store. They were there quite a while before I took the agency.

CROSS-EXAMINATION.

By MR. DALY:

Q. Are you under the new contract?

A. Yes, sir.

MR. DALY: That is all.

C. B. GUTTRIDGE, who was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Guttridge, are you the Curtis district agent at Braddock, Pa.?

A. Yes, sir.

Q. How long have you been the agent there for the Curtis publications?

A. I am entering the tenth year.

Q. What other business have you?

A. Cigars, stationery and newspapers.

Q. Do you wholesale any other magazines except the Curtis publications?

A. Not magazines.

Q. Do you wholesale newspapers?

A. Yes, sir.

Q. What newspapers.

A. The Pittsburgh papers.

Q. The Curtis publications are the only magazines you wholesale?

A. Yes, sir.

Q. How do you distribute those magazines?

A. The boys come to the store and get the supplies. The newsstands are supplied through a truck.

Q. How many boys have you?

A. Sometimes I have four and sometimes I have sixteen and eighteen.

Q. How many have you at the present time?

A. About six.

Q. What is the character of those boys?

A. They are very bright.

Q. Are they schoolboys?

A. All schoolboys.

Q. How did you get them?

A. I first got them through the Curtis representative coming in my place and making arrangements to handle all the boys coming to my place. I met them all there in a body, and got them all started. There were about fifteen or twenty of them. Some stuck and others quit.

Q. You mean that the Curtis people had been helpful in getting these boys for you?

A. Yes, sir; always.

Q. Who wholesales the Hearst publications and the "Literary Digest" at Braddock, Pa.?

A. Mr. William Rodrus.

Q. What else does he wholesale?

A. I think he has got the "Pictorial Review," the "Literary Digest," "Motors," "Good Housekeeping" and quite a few others, besides daily papers and Sunday papers.

Q. He also handles newspapers?

A. Yes, sir; that is his entire business. He has no retail stand.

Q. Are there also newspaper wholesalers in Braddock, besides this man you mentioned?

A. Mr. Rodrus—yes, Mr. Clayburn wholesales the morning papers.

Q. Were you ever asked to take on the "Pictorial Review" wholesale?

A. There was a man to see me once and what occurred I cannot say because I was not interested.

Q. Who was the man?

A. I would not know.

Q. What did he say to you?

MR. DALY: Well, now——

MR. WELCH: Well, now, what?

MR. DALY: He said he did not know what he said.

MR. WELCH: Well, I am asking him. What did he say? Did he say anything about taking on "Pictorial"?

THE WITNESS: He said something about it, but I said I was not interested. I said, "I am not interested in the wholesaling of other magazines."

By MR. WELCH:

Q. At the time this conversation took place, was this other wholesaler, which you have just mentioned, in business?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. How big a place is Braddock, Pa.?

A. The district is about twenty-eight or thirty thousand.

CROSS-EXAMINATION.

By MR. DALY:

Q. When this man called to see you was he soliciting for a wholesaler in that community or not—do you remember that?

A. I will not say positively on that point.

Q. He was not asking you to handle it retail, was he?

A. Well, now——

Q. Through the boys, I mean?

A. I was not asked to take it out to the boys.

Q. When did this happen?

A. Some time last year.

Q. About when?

A. I could not say exactly; it was in the summertime. I could not say exactly.

Q. The summertime of last year?

A. Yes; but I did not pay any particular attention to it.

Q. Who was the "Pictorial Review" agent there in the summertime of last year?

A. After that time Rodrus—that was about that time.

Q. Rodrus was appointed agent, for your information, April 10 of last year. Now, was this conversation with this man after April 10th, do you think?

A. It was about the time Rodrus started to deliver. Rodrus came and asked me if I would take them, and I said certainly I would take them.

MR. WELCH: At the time you were approached and had this conversation with the "Pictorial Review" man, were you handling "Pictorial Review" at that time, retail?

A. Yes, sir.

Q. So, any suggestion that was made to you was made for the wholesaling end of it?

A. Yes, sir; I judged that.

Q. What did Rodrus say to you?

A. With reference to what?

Q. Just what you have mentioned?

A. He asked if I would take it, and I said certainly I would.

Q. In what way did he want you to handle it?

A. Retail. He was the wholesaler.

MR. WELCH: That is all.

FRED H. BAKER was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Baker, what business are you engaged in?

A. Books, stationery, magazines and sporting goods.

Q. Are you the Curtis district agent at Martinsburg, W. Va.?

A. Yes, sir.

Q. How long have you been the Curtis agent there?

A. Since April, sometime, 1911.

Q. What other magazines or periodicals do you handle wholesale?

A. "Literary Digest."

Q. What was the first magazine that you ever handled wholesale?

A. What?

Q. What was the first magazine or publication that you handled wholesale?

A. The Curtis group.

Q. How do you distribute the Curtis publications?

A. I have a delivery service.

Q. And you deliver by this delivery service to the dealers?

A. Yes, sir.

Q. And do you deliver through boys?

A. Yes, sir.

Q. How many boys have you got?

A. Anywhere from ten to seventeen, and sometimes twenty and twenty-five.

Q. How many boys at the present time?

A. I suppose I have on the list now about twenty or twenty-two, maybe.

Q. What kind of boys are they?

A. Well, the majority of them, first-class boys.

Q. Are they schoolboys?

A. Yes, sir.

Q. Do they have regular customers that they make deliveries to?

A. Yes, sir; the regular boys; yes, sir.

Q. Do you know these boys?

A. Yes, sir.

Q. Do you know their parents at all?

A. Well, with the exception of the later boys, I know all the parents very well.

Q. Do you get in touch with the parents of the boys?

A. Yes, sir; I often have parents' meetings.

Q. Have you received any assistance from the Curtis Publishing Company in getting boys for the distribution of their magazines?

A. Yes, sir.

Q. What kind of assistance?

A. Advertising for boys to sell the Curtis group.

Q. Has their roadman assisted you in any way?

A. Yes, sir.

Q. He comes around at various times?

A. Yes, sir.

Q. And assists you in getting hold of boys for this work?

A. Yes, sir.

Q. Have you done any Y. M. C. A. work for the boys?

A. Yes, sir.

Q. To what extent?

A. At one time I had all the boys there—eight or ten of them—in the Y. M. C. A., but I got them in through a donation from a citizen. He put up two dollars and I put up one dollar myself and got them in the Y. M. C. A.

Q. Have you gotten many boys in through the Curtis Publishing Company's assistance?

A. Yes, sir; two, for two years, I think.

Q. Those memberships were paid by the Curtis Publishing Company?

A. Yes, sir.

Q. Have you received any bonuses or prizes for work done by you?

A. Yes, sir.

Q. Is that a material element in your compensation?

A. Yes, sir.

Q. Have you been asked to take on any of the Crowell publications, wholesale?

A. Yes, sir.

Q. When?

A. About sixty days ago.

Q. Sixty days ago?

A. Yes, sir; about sixty days.

Q. Do you know who it was that came to you?

A. No, sir.

Q. Do you know the name of the man?

A. No, sir.

Q. What was the magazine they referred to particularly?

A. The Crowell group.

Q. The Crowell group?

A. Yes, sir.

Q. What did you do?

A. Well, I told them I could not take them on, because I was tied up with the Curtis Publishing Company, but that I would like to take them on——

Q. It was because of your contract with the Curtis Publishing Company?

A. Yes, sir.

Q. What happened after that?

A. He sent them anyway.

Q. Sent what?

A. Magazines to be distributed to the dealers, and all four of the group came, the "Woman's Home Companion," "Every Week," "Farm and Fireside," and "The American Magazine."

Q. That was after you had refused to handle them wholesale?

A. Yes, sir.

Q. How many times did they send them to you?

A. I have gotten the two monthlies—I have gotten them once or twice. I think they came the other day, that is, the June number of "Woman's Home Compan-

ion" and the "American Magazine," and I have gotten "Every Week" and "Farm and Fireside" every week since.

Q. How were those magazines delivered to you—through what means of delivery?

A. They were delivered direct from the publisher, but they are billed——

Q. How did they come—through the mails?

A. Yes, sir.

Q. What did you do with them when you got them?

A. I put them on a shelf in the store.

Q. You did not wholesale them, did you?

A. No, sir; I did not wholesale them. The reason I did not, is that all the other dealers had already gotten them and I asked them about them because I did not want to shut——

Q. The other retail dealers had received their supply from some other sources at the time you received your supply?

A. Yes, sir.

Q. The supply you refer to?

A. Yes, sir.

Q. Are you now under the new contract, Mr. Baker?

A. Yes, sir.

Q. How big a place is Martinsburg?

A. Twelve thousand.

CROSS-EXAMINATION.

By MR. DALY:

Q. You handle quite a number of magazines, in a retail way, do you not?

A. Yes, sir.

Q. And some newspapers?

A. Yes, sir.

Q. Which is the big end of your business—the Curtis business or the other? In the way of profits?

A. What do you mean?

Q. Which is the most profitable end of your business?

A. The magazine business?

Q. No, the whole business—does the Curtis business predominate over the rest of your business?

A. No, sir; the rest of the business predominates over the Curtis business.

Q. What arrangement did you have with the Crowell Publishing Company?

A. When the man dropped around to see me about it about sixty days ago, he said he had to place the contract that day, and he had to hurry to leave town; that he had not seen his wife since Christmas, and he said he was going to put an agent in town, and he had seen all the other agents in town, and they had referred him to me, because I handled the Curtis group wholesale.

Q. He said that, did he?

A. Yes, sir.

Q. What did he do?

A. He said, "I am going to put you down." I said "You can do it if you want to, but I am tied up with the Curtis Publishing Company."

Q. You agreed that he put you down?

A. I do not think I did. I said—I told him how I was situated.

Q. Did you sell those papers?

A. No, sir.

Q. What did you do with them?

A. I have them yet. I returned the front pages for the monthlies and the weeklies up to that time.

Q. Did you have any sales for them?

A. No, sir; because I had gotten those magazines from the news company.

Q. When a boy leaves you—you say they have permanent customers—what becomes of those customers

when they leave—they do not stay always with you; what would you do about those customers?

A. If he is a regular boy, he will turn the customers over to me, and I will turn them over to another boy.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You testified that this man asked you to take on the Crowell publications, and had a conversation with you, and you said something about he could put you down if he wanted to?

A. I said, "You can do your own pleasure about that, but you know I am tied up with the other company."

Q. You did not mean you would wholesale the Crowell publications or you could wholesale them in that way?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. What did you mean by "putting you down"?

A. I think he ought to have known what I meant.

Q. But what did you mean?

A. I meant I had nothing more to do with it. That is what I meant.

Q. If he wanted to put you down it was at his own risk?

A. Yes, sir.

Q. Did you sign the contract?

A. No, sir.

Q. You never signed a contract with the Crowell Company?

A. No, sir.

W. T. FORRESTER was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where are you in business, Mr. Forrester?

A. At McKeesport, Pennsylvania.

Q. How big a place is McKeesport?

A. Sixty thousand.

Q. Are you the Curtis district agent at McKeesport?

A. Yes, sir.

Q. How long have you been the district agent there?

A. Eight years.

Q. What do you handle wholesale in the way of magazines?

A. Curtis publications, "Literary Digest," "Collier's," and those known as the Hearst publications.

Q. What is the first magazine or publication that you ever handled?

A. The Curtis publications.

Q. For how many years did you handle only the Curtis publications?

A. For about four or five years.

Q. How do you distribute the Curtis publications?

A. Some by truck, but mostly by carrier, and those at a distance we send by trolley.

Q. How are those carried delivered?

A. By boys.

Q. How many boys have you?

A. Thirty-five.

Q. What is the character of these boys?

A. They come from the best homes of the town. They are between the seventh and eighth grades and

running on up in the high school and junior years. They usually drop out about that time.

Q. They are practically all of them school boys?

A. Yes, sir; all but three or four.

Q. And how long do they stay with you as a rule—is it a fairly permanent force?

A. We have some boys who have been with us four years.

Q. Do you know the parents of the boys?

A. In many cases; yes, sir; we get the parents' consent to the boys coming with us.

Q. Before you use a boy on this work you get the parents' consent?

A. Yes, sir.

Q. Have you had anything to do interviewing the teachers of the boys?

A. Yes, sir; and the superintendents are very friendly, believing this is a good thing.

Q. How are these boys usually obtained?

A. By advertisements published in our papers by the Curtis Publishing Company, and then we send out cards asking the boy if he wants to make a little money on the side, why to come to see us. They are also furnished by the Curtis Publishing Company.

Q. Does the Curtis Publishing Company roadman assist you in getting boys?

A. Yes, sir; our first group of boys was called together by the Curtis roadman and met in the store and were enthused by the roadman.

Q. When you get a boy, do you usually see the boy's parents?

A. I usually call them on the telephone. I have been there a long while and know the people pretty well.

Q. Have you received anything in the way of prizes or bonuses?

A. Yes, sir.

Q. For sales?

A. Yes, sir.

Q. Has that been a material consideration to you in your business?

A. Oh, yes; but it has been more of an encouragement to the boys.

Q. The boys have received prizes?

A. Yes, sir.

Q. Have you ever been asked to wholesale "Pictorial Review"?

A. Yes, sir.

Q. When was that?

A. August or September, 1917.

Q. And in what way were you asked to distribute "Pictorial Review"?

A. In order to increase the circulation at the present time it was suggested that boys be used.

Q. What did you say?

A. That we could not use our boys.

Q. That is the Curtis boys?

A. Yes, sir.

Q. And you refused to do it?

A. Yes, sir, and gave the gentleman the name of my competitor.

Q. What happened then?

A. He took it.

Q. Your competitor took the wholesale agency of the "Pictorial Review"?

A. Yes, sir.

Q. Did this competitor of yours who was handling the "Pictorial Review" ever ask you about the boys?

A. About a month later he asked me to give him my list.

Q. Did you give it to him?

A. No.

Q. Have you ever been asked to wholesale the Crowell publications?

A. Yes, sir.

Q. When was that?

A. Last March.

Q. In March of 1918 or 1917?

A. 1918, in time to take on the April publications.

Q. What did you do about that?

A. I said I was not interested.

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You frequently call these parents over the telephone?

A. No, sir; not frequently.

Q. You had a letter from Mr. McKinnon on March 5, 1917, inquiring about the wholesalers in your town, did you not?

A. I do not remember—maybe I did.

Q. Will you look at this letter (handing letter to witness)?

A. Yes, sir.

Q. I will ask you whether you received that?

A. Yes, sir.

Q. And you replied to that at the bottom, did you not?

A. Yes, sir; that is my answer.

Q. Now, there was nothing in this letter asking you to take on the magazine, was there?

A. No, sir.

Q. According to your statement, you are the only real wholesaler there?

A. Yes, sir; the only one at that time.

MR. WELCH: We have no objection to that letter.

MR. DALY: We offer that letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 20," and the same is as follows:)

RESPONDENT'S EXHIBIT, No. 20.

"THE PICTORIAL REVIEW COMPANY.
The Pictorial Review Building,
216-226 West 39th Street
New York.

March 5, 1917

W. T. Forrester & Company,
McKeesport, Pa.
Gentlemen:

Will you please use the enclosed stamped envelope to tell me who the real live magazine wholesaler is in your city?

Who supplies you with the Curtis publications —"Ladies' Home Journal" and "Saturday Evening Post"?

Who supplies you with the "Cosmopolitan," "Hearst's" and "Good Housekeeping"?

Who supplies you with the Munsey periodicals?

Beginning with the May issue, on sale April 10th, "Pictorial Review" will be supplied direct and we want a good live wholesaler to represent us in McKeesport, Pennsylvania.

Thank you!

Sincerely,

B. A. MacKINNON,
Circulation Director.

Gentlemen: We are the only Wholesale Maga zine Dealers in McKeesport. REAL LIVE. We cover district with Curtis publications, Hearst, Munsey, "Cosmo," etc., direct. Please advise with reference to "Pictorial Review" and oblige,

3-8 Yours truly,

W. T. FORRESTER & CO.,
Booksellers and Stationers,
520 Fifth Avenue, McKeesport, Pa."

By Mr. Daly:

Q. After that, on April 7th, you wrote another letter to the "Pictorial Review," did you not, Mr. Forrester—will you look at that letter (handing letter to witness)?

A. Yes, sir.

Q. And you got a reply on the 25th, a copy of which I will hand you?

A. Yes, sir.

Q. Was that reply received by you?

A. Yes, sir.

Q. In which they informed you that they had an agent there? Was that correct?

A. Yes, sir; that evidently followed the visit of the gentleman to us.

Q. These letters followed the visit of the gentleman to you?

A. These last ones; yes, sir; certainly.

Q. Your testimony was that it was in August that this representative of the "Pictorial Review" was there?

A. I may be mistaken as to the time.

Mr. Daly: We offer those letters in evidence.

Mr. Welch: We have no objection.

(The letters referred to were received in evidence and marked "Respondent's Exhibits Nos. 21 and 22," respectively, and the same are as follows:)

RESPONDENT'S EXHIBIT, No. 21.

"W. T. FORRESTER & COMPANY,
Books, Stationery, Engraving,
520 Fifth Avenue,

McKeesport, Pa., April 7th, 1917.

The Pictorial Review Co.
New York.
Gentlemen:

I have not heard from you since replying to your inquiry as to who the wholesale magazine dealer is in McKeesport. We wrote that we were the people. We have been using forty Pictorial Reviews (ought to have forty-five, I believe), and if they don't come from Pittsburgh News we want them from you. Kindly advise, also if we are to supply other dealers in magazines in our city, and oblige,

Yours truly,
W. T. FORRESTER & COMPANY,
520 Fifth Avenue, McKeesport, Pa."

RESPONDENT'S EXHIBIT, No. 22.

"April 25, 1917.

W. T. Forrester & Company,
520 Fifth Avenue,
McKeesport, Pa.
Gentlemen:

We have your letter of April 7. We have already appointed the Myers-Norton Company as our wholesale distributors for your city. You no doubt know the attitude the Curtis Publishing Company have taken in regard to their agents handling Pictorial Review. We thought it would

be better, for the present at least, to secure an agent other than the Curtis agent. He hope you will let Myers-Norton Company have your order starting with the June issue, which goes on sale May 10. We will keep your name on file and should we at any time decide to make a change we will write you.

Yours very truly,
THE PICTORIAL REVIEW CO."

By MR. DALY:

Q. Who was this representative that saw you?

A. I cannot remember.

Q. Is this the man you saw (indicating Mr. Korb)?

A. I could not remember—it was somebody who was authorized to speak for the company.

Q. You gave them an order afterwards, did you not—look at that (handing paper to witness).

A. Yes; may I explain why?

Q. Oh, yes.

A. My competitor could not fill the order promptly for some reason.

Q. What was the reason?

A. I do not know, but they did not hand them to me directly—promptly enough. I cancelled my order with the Pittsburgh News, from whom I had been getting them previously.

Q. The Pittsburgh News—is that a branch of the American News Company?

A. Yes, sir; I did the same thing with reference to the Crowell publications after, too.

MR. DALY: We offer this order, dated April 14th, in evidence.

MR. WELCH: That is all right.

(The order was thereupon received in evi-

dence and marked by the stenographer "Respondent's Exhibit No. 23," and the same is as follows:)

RESPONDENT'S EXHIBIT No. 23.

"April 14, 1917.

The Pictorial Review Company,
216-226 West 39th Street, New York.

Please enter my order for forty-five copies of Pictorial Review for June (on sale May 10th). These are to be sent to me, all transportation paid, fully returnable (covers to be accepted as returns). Bill me for these copies when shipped and I will pay for same when received.

W. T. FORRESTER & CO.,
Booksellers and Stationers,
520 Fifth Avenue, McKesport, Pa.

Send at once two May issues."

(On front:)

"Retail Magazine Department,
The Pictorial Review Company,
216-226 West 39th Street,
New York City."

By MR. DALY:

Q. I hand you a letter dated April 27th, 1917, addressed to you by the Pictorial Review Company. Will you look at that letter (handing letter to witness)?

A. Yes; that is mine.

MR. DALY: I offer this letter.

MR. WELCH: We have no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 24," and the same is as follows:)

RESPONDENT'S EXHIBIT, No. 24.

"April 27th, 1917.

W. T. Forrester & Company,
520 Fifth Ave.,
McKeesport, Pa.
Gentlemen:

We have given your order for extra May copies and standing order for forty-five copies, starting with the June issue, to our wholesale distributors, the Myers-Norton Company, of your city. They will see that you are supplied. Kindly let them have your order for copies on all future issues.

Very truly yours,
THE PICTORIAL REVIEW COMPANY,
EHO AI Wholesale Magazine Department."

By MR. DALY:

Q. You are now under the new contract?

A. Yes, sir.

Q. When did you go under that?

A. Sometime in January or February.

Q. How do you remit under that contract?

A. I remit for March in April and for April on the third of May.

Q. You do not remit every week?

A. No, sir; I have not been doing so recently. I used to.

Q. You collect from the retailers and when you get that in, you remit in your case?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Was your bond increased?

A. Yes, sir.

Q. And your bond was commensurate with the size of your orders—is that correct?

A. About; yes, sir.

Q. How many boys did you say you had?

A. Thirty-five.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. In reference to the letter of the Pictorial Review Company and your postcard of April 14, 1917, to the Pictorial Review Company, in which you state, "Please enter my order for forty-five copies," etc. —that was for the purpose of retailing the "Pictorial Review," was it not?

A. Yes, sir; absolutely.

Q. That was not for the wholesaling of the magazine?

A. I think I said in one of those letters how many I retailed. That was simply to fill in the orders pending this arrangement.

Q. And previously to that you had been receiving your orders from the Pittsburgh News Company?

A. Yes, sir.

Q. And the same applies to the "Pictorial Review" letter to you dated April 27th, 1917?

A. Yes, sir.

Q. It had nothing to do with the wholesaling of "Pictorial Review"?

A. No, sir.

MR. WELCH: That is all.

EXAMINER MOORE: We will take a recess now until 2 o'clock.

(Thereupon, at 12.40 o'clock P. M., a recess was taken until 2 o'clock on the same day.)

AFTER RECESS.

The hearing was resumed pursuant to the taking of noon recess.

B. L. SRONCE was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Sronce, where do you live?

A. Statesville, N. C.

Q. Are you the district Curtis agent there?

A. Yes, sir.

Q. And how long have you been agent?

A. Since March, 1915.

Q. And do you do any business other than that?

A. I have a general office supply and printing business and stationery business.

Q. Do you wholesale any magazines or newspapers other than Curtis publications?

A. No, sir.

Q. Is there any other wholesaler there?

A. Mr. Brady, of the Brady Printing Company, may wholesale some, but I rather think not. I have no knowledge of it personally.

Q. You deal in both Curtis and other publications?

A. Yes, sir.

Q. The other magazines, but you do not wholesale them?

A. No, sir.

Q. Does he deal in any other magazines, wholesale them?

A. No, sir. I am sure of that.

Q. Do you deliver to the dealers?

A. Yes, sir.

Q. Have you boys?

A. Yes, sir.

Q. How many?

A. Eight, I believe.

Q. How did you get them?

A. Largely, well, almost—one boy was turned over to me, and that boy I have yet, from my predecessor, and the balance were gotten by advertisements from the Curtis people and by personal friends of Mr. Banks.

Q. What are they, schoolboys?

A. Yes, sir.

Q. Do they handle anything besides the Curtis publications?

A. No, sir; except one or two of them sell merely evening papers in the evening.

Q. How do you dealers get your magazines there?

A. From the American News Company.

Q. And that applies to all magazines other than Curtis?

A. Yes.

Q. How large a place is Statesville?

A. It is about six thousand.

Q. Did you ever handle any other magazines?

A. Nothing except in a retail way. We handle all of them in a little newsstand that we have.

Q. But you never handle anything else in a wholesale way?

A. No, sir.

Q. Have you ever been asked to handle anything else wholesale?

A. We have by the Hearst representatives; I do not just remember when or by whom?

Q. You did not take it up?

A. No, sir. We thought that we had our hands full.

Q. What is that?

A. We felt that we had all we could do.

Q. In conjunction with your other work, the Curtis work gave you enough to do? Is that correct?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What part of your time is occupied by handling Curtis magazines?

A. Well, it is not so very much time, but it requires a little time and patience with the boys. We have to send the papers out to the dealers and give them to the boys and we have reports, of course, to make out.

Q. That would be once a month, I guess?

A. Once a month, yes.

Q. And then you have your reports to make out?

A. Yes.

Q. How many boys do you have?

A. Eight.

Q. How long does it take you to make out these reports?

A. Not very long.

Q. An hour?

A. Yes, sir.

Q. You could handle other business, could you not, in connection with your Curtis business?

A. If I wanted to.

Q. It was your Curtis business that you did not want to interfere with?

A. It was one of the things. We did not feel like we had time for anything else.

Q. How does the American News Company distribute magazines there?

A. Through the mail.

Q. That is not as good a way as your way, through the dealers?

A. No, sir; I guess not.

MR. DALY: That is all.

MR. MILBURN: That is all. Call Mr. Kramer.

CHARLES F. KRAMER was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Kramer, where do you live?

A. New Brighton, Pa.

Q. Are you the Curtis distributor there?

A. Yes, sir.

Q. How long have you been the distributing agent?

A. About nine years.

Q. What is your other business, if you have any?

A. My main business is newspaper—then, I have a cigar store and a stationery store and sporting goods store.

Q. Do you have competitors in that general line there?

A. Yes, sir; that is, I have one competitor.

Q. And you only handle the Curtis products?

A. Yes, sir; wholesale.

Q. Wholelsale?

A. Yes, sir.

Q. Do you cover all the dealers? Do you distribute to all the dealers in the town?

A. We only handle the one dealer, and I sell to boys.

Q. How many boys have you?

A. About twenty.

Q. How many boys have you?

A. About twenty.

Q. How big a place is this New Brighton?

A. About ten thousand.

Q. These twenty boys, what are they?

A. Well, they are a pretty good class of boys.

Q. Are they schoolboys or what?

A. Schoolboys.

Q. They distribute these papers among the residential districts?

A. Yes, sir.

Q. Have you worked with them and instructed them?

A. Yes, sir.

Q. What work have you done?

A. Well, we have talked with them and tried to encourage them to sell a few more papers, and give them vouchers, to explain the voucher system to them.

Q. Where did you get them?

A. From the Curtis Publishing Company.

Q. Did they give you the list of the boys?

A. Well, when I took the agency they turned over several boys.

Q. But I mean, when you got them—I refer to the boys—how did you get them?

A. Through advertisements in the local papers, taken by the Curtis Publishing Company.

Q. Were you asked to handle "Every Week" for the Crowell magazines?

A. Yes, but that has been recently; about three or four weeks ago.

Q. How were you asked to handle that?

A. Well, they asked me to handle them wholesale. I told them I could not handle any more magazines wholesale; I had all I could do, so I referred them to my competitor.

MR. DALY: Speak a little louder, please.

THE WITNESS: Yes, sir.

By Mr. Milburn:

Q. Were you asked to handle them through these boys?

A. Yes.

Q. And you told him that you did not want to take it?

A. No; I told them I did not want to take it, and I turned them over to my competitor.

Q. Did he take them?

A. No, sir. Then they came back again, and I figured on handling them in a retail way, but not in a wholesale way.

Q. But you sell all magazines retail?

A. We sell all magazines retail excepting the Curtis.

Q. I am confiing myself to the Curtis. That is the only wholesale?

A. That is the only wholesale.

Mr. Milburn: That is all.

Cross-Examination.

By Mr. Daly:

Q. The newspaper part of your business——

A. (Interposing) That is the largest part of my business.

Q. The Curtis part is small?

A. The Curtis part is small with me, yes.

Q. The retail magazine end of the business constitutes another part of your business, does it?

A. Yes; another part.

Q. And these boys go and come, don't they?

A. Go and come. Some stay on longer than others.

Q. Come and go, and many drop out entirely, don't they?

A. Yes. Some will stay along—I have had some who have been on a year or more. Of course, you can not always count on them.

Q. They have regular customers?

A. Yes.

Q. And when they leave who gets those customers?

A. Well, often they try to sell their customers at five cents apiece, or ten cents apiece, whatever they can get for them. If they cannot sell them, some other boy gets the list.

Q. They try to sell them to some other boy. That is what you mean?

A. Yes, sir. That is the idea, the customers.

Q. Are you under the new contract?

A. Yes.

Q. How long have you been under that?

A. Four or five weeks.

Q. Who is the Crowell man that saw you?

A. He is a young man—I cannot give you his name now.

Q. He wanted you to use these Curtis boys—is that correct?

A. He did not refer directly to using the Curtis boys. Perhaps that was his view. I do not know.

Q. Did he say anything about the Curtis boys?

A. He evidently wanted me to handle them through the boys, as well as at the store.

Q. Do you use these boys for anything else excepting delivery of the Curtis publications?

A. The Curtis business. The Curtis boys just handle Curtis magazines.

Q. And that is the twenty?

A. That is about all they handle.

Q. That is about all?

A. That is about all. I have two boys selling morning and evening papers at the local station, selling newspapers.

Q. They are the Curtis boys?

A. Curtis boys. They handle Curtis magazines, but they handle newspapers as well.

Q. And when you make out your report to the company you include those boys?

A. Oh, yes.

MR. DALY: That is all.

MR. MILBURN: That is all. Call Mr. Dyson.

L. F. DYSON was called as a witness on behalf of the respondent, and, being duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Dyson, where do you live?

A. Alexandria, Virginia.

Q. Are you the Curtis agent there?

A. Yes.

Q. And how long have you been agent there?

A. Since March, 1915.

Q. Do you handle any magazines wholesale other than Curtis?

A. No, sir; only Curtis.

Q. Have you any other business?

A. Books, stationery and office supplies.

Q. Do you handle anything wholesale—do you handle any newspapers wholesale?

A. No, sir.

Q. Did you begin the wholesale business for the Curtis Company?

A. In magazines; yes, sir.

Q. You have never wholesaled anything else?

A. Jobbing and stationery business, but not magazines.

Q. Do you sell to the boys?

A. Yes, sir.

Q. How many boys have you?

A. Well, I range from fourteen to eighteen, right at present about fourteen.

Q. What are they, school boys?

A. School boys, most of them. Most of them are boys that we have had for some time.

Q. Do they handle magazines other than the Curtis magazines?

A. No, sir; not as I know of.

Q. They use their time out of school to make money selling the Curtis papers—is that right?

A. Yes, sir.

Q. Does any other magazine publishing house maintain a wholesale dealer that you know of?

A. No, sir.

Q. There are other people in the town in your same line of business, aren't there?

A. Yes, sir; five others.

Q. But the Curtis people are the only people who have come in and established a wholesale business?

A. Yes, sir.

By Mr. Daly:

Q. The others are retailers, are they?

A. Retailers and drawing their supplies from the Washington News Company. That is where we get our other magazines.

By Mr. Milburn:

Q. And they have a delivery in Alexandria?

A. Yes, sir. An electric car, putting the magazines right off at the door.

Q. Were you asked to handle Crowell?

A. Yes, sir.

Q. Did you communicate with the company—the Curtis Company?

A. I wired—at the suggestion of our representative, at its expense, to the Curtis Publishing Company.

Q. And what did they say?

A. They sent a reply telegram stating that they would not sanction taking their agency.

Q. And you would not take it up?

A. No. I told him that was the end of it, so far as I was concerned.

Q. How were you to handle the Crowell Company?

A. He said that they would be sent to us direct, but he would still continue to pay our bills to the Washington News Company.

Q. Was anything said about handling other business?

A. No, sir; he never said anything about the business.

Q. Nothing was said about that?

A. He just said that they were establishing agencies and as we were handling other magazines, we had a better way of dealing than the other stands.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You tried to get to handle the "Pictorial Review," too, didn't you?

A. It has been some time when an agent called on us for the "Pictorial Review," but I did not see him. I was out at the time, and he left word and I wrote to them.

Q. And you wired to the Curtis Publishing Company?

A. Yes, sir.

Q. And the Curtis Publishing Company refused?

A. The Curtis Publishing Company refused, yes, sir.

Q. You wanted to take it on, didn't you?

A. Well, I had asked their consent. We were in a position to handle magazines. We have got a delivery.

MR. DALY: We offer this telegram in evidence.

By Mr. Daly:

Q. Is that the telegram that you sent to the "Pictorial Review," dated 3/27/17, with reference to that?

A. At the request of their agent, this telegram was sent. Their agent came there.

Q. You wanted to handle the paper?

A. We were very willing to handle any papers.

Q. It meant additional revenue to you?

A. Oh, yes.

Q. You had ample time to handle them?

A. I had time and facilities. We had a machine.

(The paper referred to was thereupon received in evidence and marked by the stenographer: "Respondent's Exhibit No. 25.")

Respondent's Exhibit No. 25.

(Postal Telegraph Blank)

"27NYF1130AM.31Collect
Alexandria Va Mar 22
Pictorial Review Co
NY.

Contract with Curtis Co requires their permission we wired them they refused for that reason cannot take agency unless you can make arrangement with them for us to handle both.

F. S. Dyson & Bro."

By Mr. Daly:

Q. There is another wholesaler there, you testified?

A. There is another wholesaler there, four other newsstands, and one drug store selling magazines, and ourselves makes six.

Q. At retail?

A. Yes, sir. That is, altogether.

Mr. Daly: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Some of your competitors of whom you spoke have cars, too, haven't they?

A. Yes, sir.

Q. Automobiles?

A. Yes, sir.

Q. And there are three newspaper wholesalers in town, are there not?

A. Three; yes, sir.

Q. They have transportation facilities?

A. Two of them have. One has not.

MR. MILBURN: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. You are under the new contract? I think I asked you?

A. Yes.

MR. DALY: That is all.

ROSCOE PEACOCK was recalled as a witness on behalf of the respondent, and testified further as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. When you testified in New York, at one of the hearings you were asked as to whether a letter dated February 10, 1917, from Mr. Mackinnon, that contained certain enclosures was in your files, and you said that so far as you recollected, it was not. Have you since made an examination of your files?

A. When I got back to Philadelphia,——

Q. (Interposing). And if so, just state any correction you wish to make to your testimony.

A. When I got back to Philadelphia I looked up the letter of February 10th, and found annexed to it in my file a circular letter, and in my testimony in New York, I was shown a letter dated February 16th, and headed, "Mr. Live Wire Wholesaler," and I found in looking up my file in Philadelphia, that there was a circular letter enclosed with Mr. Mackinnon's pen-written letter of February 10th, both of which I have. This letter I was shown in New York at the hearing, and was dated February 16th. It confused me, but upon comparing the body of the letter—it has no salutation—with the letter in evidence, headed "Mr. Live Wire Wholesaler," I find that they are the same, that is, the body of the letter is the same. I had no recollection of any enclosure, and located it only upon looking it up after I got back to Philadelphia.

Q. At the time you received the letter of February 10, 1917, did you notice that circular, and state any facts in connection with that?

A. I did not quite hear you.

Q. I say, at the time you received the letter of February 10, 1917, did you see that circular or notice it in particular, and if so, state any facts in connection with that?

A. My only recollection is that I regarded this pen-written letter as containing the information in a personal way that the "Pictorial Review" has started to establish an independent distribution, and I think I glanced hastily over this form letter, which I regarded as being printed. I do not know whether it is printed or multigraphed; something like that—something of that sort—and I glanced at it very hastily, considering that it only contained a statement in pen-writing, and paid very little attention to it. I have never shown this correspondence to anybody. I simply trusted to my recollection as to the character of the communication, and did look it up myself once or twice after the date

of the letter, merely to confirm the date on which I had first learned that the "Pictorial Review" was to establish an independent distribution.

Q. You did not state anything to Mr. Douglas in the conference on February 20th, about that circular?

A. No, sir; I did not.

Q. Or any of its contents?

A. No, I did not. The only reference I made to the communication was that I had received on February 10th a pen-written letter from Mr. Mackinnon, advising me that he had decided to establish an independent distribution. That was the only fact that found lodgment in my mind until I looked the thing up.

Q. You were asked to produce the letter; at least, I suggested that you would, and you have it there?

A. I have the letter, and the enclosure with it.

MR. MILBURN: Do you want those letters, Mr. Daly?

MR. DALY: Yes, sir.

(The papers referred to were handed to Mr. Daly.)

MR. DALY: We think those letters ought to be put in evidence.

MR. MILBURN: That is all, I think, Mr. Peacock.

(The letters referred to were thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 26," and are as follows):

RESPONDENT'S EXHIBIT No. 26.

"THE PICTORIAL REVIEW COMPANY
The Pictorial Review Building,
New York.

Circulation Department,
B. A. MACKINNON, Director.

Feb. 10, 1917

Dear Roscoe:

My hat is in the ring! The enclosed letter tells the story. This is the letter I am sending out to wholesalers. Give me your prayers please. This should be a good move for all of us.

Sincerely,

BERT."

"THE PICTORIAL REVIEW COMPANY
The Pictorial Review Building,
216-226 West 39th Street,
New York.

I have decided to make "Pictorial Review" strictly non-returnable through all branches of the American News Company beginning with the May number, on sale April 10th.

We have notified the American News Company accordingly.

Do you want the agency for your city?

Price nine and three-quarters cents per copy, delivered, fully returnable within sixty days, but I shall expect you to protect your interests by holding your returns to ten per cent. or less.

Terms: Cash with order.

Last year and the year before, the May issue was the biggest selling issue of the year. It will unquestionably repeat, this year, for these reasons:

1. It will contain the final installment of Mrs. Norris's wonderful story which is selling like wildfire. Ask your dealers. They'll tell you more about it than I can in this space.

2. It will contain the opening instalment of Emerson Hough's new serial "The Broken Gate" which we are going to advertise extensively in

other magazines and in newspapers all across the country.

3. It will contain the first glimpse of the new styles for Summer.

It will be a whale of a big, beautiful book with a crack-a-jack cover.

That's enough to tell you now.

I have discussed this proposed move with the big progressive publishers whom you now represent. They want you to have more business as more business means more profits, and more profits means that you can extend and give more service.

We do not wish to take advantage of any other publisher's special organization. For instance we have definitely abandoned any idea of a boy sale. But we do want to properly supply every newsdealer in America.

I am convinced that the live independent wholesalers in this country can give Pictorial Review a greatly increased sale right from the start.

Canvass your trade at once and mail in your order and check to cover same, by return mail, using the enclosed envelope for that purpose. We must have your order this far in advance in order to definitely determine the quantity to print for you.

Yours for more profits,

Circulation Director.

P.S. We shall use liberal newspaper space in advertising the May number right in your own territory."

CROSS-EXAMINATION.

By MR. DALY:

Q. The letter in there, of course, speaks for itself, but it did call your attention to this particular circular. Is not that correct?

A. Yes, sir.

Q. Was not that letter put in your regular file, Mr. Peacock?

A. Yes, sir.

Q. It came in the course of regular business?

A. Yes; it was filed in the regular way.

Q. It was filed in the regular way?

A. Yes.

Q. It became a part of the files of the Curtis Publishing Company?

A. It became a part of the file in which my own personal correspondence was kept.

Q. Your correspondence is part of theirs?

A. Yes—my business correspondence.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Just one minute, Mr. Peacock. Had you, prior to going back to Philadelphia and getting that letter, ever communicated the contents of that circular, or the fact that that circular had been received, to Mr. Douglas or Mr. Milburn or myself?

A. No.

MR. WELCH: That is all.

By MR. DALY:

Q. It was notice to your company or notice to you that they were going to begin this campaign. Is that correct?

A. Yes. That is right, but as I said before, I merely used the——

MR. DALY (Interposing): I understand that.

MR. WELCH: Just let him explain, Mr. Daly. Go ahead, Mr. Peacock.

MR. DALY: I did not ask that.

MR. WELCH: I will ask for the explanation, then, myself.

MR. DALY: He has already said that same thing. Go ahead and say it again, if you want to.

THE WITNESS: That I had referred to the letter two or three times to establish the date on which I learned from Mr. MacKinnon that he was about to establish an independent distribution, but I must have glanced very hastily at the circular letter attached, and it made no impression on my mind, and I did not know that it was there until I got back and looked it up.

MR. WELCH: That is all.

E. W. GUTHRIE was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Guthrie, by whom are you employed?

A. Curtis Publishing Company.

Q. In what position?

A. Superintendent of agents.

Q. What district do you cover?

A. Maryland, West Virginia and part of Virginia and the District of Columbia.

Q. How many towns or cities in all?

A. Thirty-three.

Q. And in those thirty-three, are there thirty-three separate agents?

A. There are thirty-three separate agents.

Q. Do you know them?

A. I do.

Q. Are you familiar with your district?

A. I am.

Q. You have visited all the towns?

A. I have.

Q. Have you recently, during the last few months, at the request of the Curtis Publishing Company, made an investigation of the towns in your district to find out certain information requested by the Government?

A. I have.

Q. And did you make your reports with reference to each town to the Government?

A. Yes.

Q. Those are the reports on white and pink slips, are they?

A. They are.

Q. How many towns did you cover?

A. Thirty-three.

Q. In how many of those towns is your district agency the only magazine wholesaler—is the only one wholesaler?

A. Twenty-six.

Q. Of those twenty-six, do you know how many started with the Curtis magazines first of all?

A. The Curtis magazines?

Q. Yes.

A. Twenty-nine.

Q. You cannot get twenty-nine out of twenty-six.

A. You mean of the twenty-six?

Q. Yes.

A. I do not know that.

Q. Out of your total of thirty-five, how many started——

MR. DALY: Thirty-three.

A. Of the total of thirty-three, twenty-nine started with the Curtis publications.

Q. And then some of them, thereafter, took on other publications. Is that correct?

A. Yes, sir.

Q. In returning to other wholesalers, on these figures have you considered "Pictorial Review" or the American News Company branches at all?

A. Excluding——

Q. (Interposing) In other words, did you exclude them?

A. We excluded them and the Crowell group of magazines too.

Q. Of your thirty-three agents how many handle only Curtis magazines?

A. I will have to refer to a memorandum to get that for you.

Q. Have you got a memorandum there that you can refer to?

A. Yes. (Witness does so.) That is, of the twenty-six agents, how many?

Q. (Interposing) No; of the thirty-three, of all of your agents, how many handle only Curtis publications?

A. The data I have is of the twenty-six district agents, fifteen handle only Curtis publications.

Q. Do you know how many of that whole thirty-three handle only Curtis?

A. No, I do not.

Q. You have not any data right at hand on that?

A. No, I have not.

Q. That appears in your reports?

A. Yes.

Q. So, of the twenty-six towns where there is only one wholesaler, fifteen of them——

A. (Interposing.) Handle only the Curtis publications.

Q. Handle only Curtis publications?

A. Yes.

MR. MILBURN: That is all.

MR. SPIESS: Let me have those reports.

MR. HALL: Which ones do you want?

MR. SPIESS: The whole thirty-three.

(The reports were thereupon handed to Mr. Spiess.)

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Did you hear Mr. Dyson's testimony?

A. I did not hear it clearly.

Q. He testified that he only wholesaled Curtis publications?

A. Yes, sir.

Q. And on your list here you have him as wholesaling the Curtis publications and the Hearst group?

A. That was correct at the time that this notice was made.

Q. When was that?

A. The date on that report.

Q. February 22, 1918?

A. Yes, sir. I presume Mr. Dyson was referring to today.

Q. You think he has given it up?

A. I could not say positively, but that report shows exactly what existed at the time I made that investigation.

Q. He told you so?

A. He did.

Q. Did I understand you to say that out of twenty-six towns only fifteen handled Curtis magazines only?

A. Out of twenty-six towns the Curtis agent in fifteen of those towns handles Curtis publications only.

Q. That is, wholesale?

A. Yes. That is all he wholesales—of magazines.

Q. You are not counting the "Pictorial Review" as a wholesale, are you?

A. No, sir.

MR. SPIESS: I make it sixteen, but one of them is a "Pictorial Review" man, and eliminating that, that makes it fifteen.

By MR. SPIESS:

Q. Now, I will read these towns off, to you, Mr. Guthrie: Sistersville, W. Va.; Moundsville, W. Va.;

Weston, W. Va.; Morgantown, W. Va.; Martinsburg, W. Va.; Grafton, W. Va.; Elkins, W. Va.; Winchester, Va.; Clifton Forge, Va.; Salisbury, Md.; Charlottesville, Va.; Fredericksburg, Va.; Harrisonburg, Va.; Hopewell, Va., and Easton, Md.

A. Those represent the Curtis agents who handle Curtis publications wholesale only.

Q. And there are no other Curtis agents in those towns?

A. No.

Q. What is the largest town of those towns I have enumerated?

A. What is the largest town?

Q. Yes.

A. I would have to glance over that again. I have some population figures here that I can refer to. Hopewell, Va., is the largest.

Q. What is the size of that?

A. Twenty-five thousand.

Q. Do you know whether or not Hopewell has been recently increased to that size, tremendously increased to that size, on account of war activities of the Du Pont Company?

A. It spontaneously increased to that size from the time it was built.

Q. When was it built?

A. It was sort of built over night.

Q. When was that?

A. Well, I do not know the exact date, just when it was started.

Q. Say two or three years?

A. Something near that, I suppose.

Q. Now, eliminating Hopewell, which is the next largest town in that list?

A. Morgantown, West Virginia.

Q. What is the size of that?

A. Fourteen thousand.

Q. What is the smallest town of those?

A. Weston, West Virginia.

Q. What is the population of that?

A. Three thousand.

Q. So that, eliminating Hopewell, the size of these towns, where the Curtis Publishing Company only has a wholesale distributor of magazines, the population ranges from 14,000 to 3000?

A. Yes.

By Mr. Milburn:

Q. May I just ask where you got the population figures?

A. They were furnished to me by the home office. They are also given—they were given on the data sheet that accompanied these pink and white sheets of the home office.

Q. Do you know what census it is—if you know?

A. I happen to know that the home office wrote me that they got the current census up to within just a short time ago, because I got the current census for seven or eight of these towns myself by a personal investigation of the towns from the city officials, to know what the population was.

By Mr. Daly:

Q. Do you know whether or not these towns that you have just spoken of are thickly populated with colored people?

A. I cannot say that they are.

Q. That is the territory that you cover?

A. It covers Northern West Virginia towns, where there is a smaller percentage of negro population than in a town down in Virginia. It varies on account of the particular locations.

Q. How long have you been agent in this district?

A. Since I went with the Curtis Publishing Company, in August, 1916.

Q. Take Lynchburg, Virginia. The Curtis agent there is L. O. Williams?

A. Yes.

Q. He handles the Curtis publications and "Collier's Weekly"?

A. Yes.

Q. And Patrick Knight handles the "Pictorial Review"?

A. Yes.

Q. How long has Mr. Williams been with the company?

A. He was the Curtis agent when I came on this territory.

Q. How long has Mr. Knight been in business?

A. I do not know.

Q. You went there, you say, in August, 1916?

A. I have been in this territory since that time.

Q. Was Mr. Knight an agent when you went on this territory?

A. I think not.

Q. When you went on this territory, the Curtis agent was the only agent in that territory handling magazines wholesale. Is not that true?

A. I am not familiar enough with the conditions dating back that far to say positively that he was.

Q. Would not you know if any other wholesale distributor was in that town operating?

A. I was not sufficiently interested in the activitives of wholesalers at that time to make any special note of the fact.

Q. When did you first learn that Mr. Knight was a "Pictorial Review" agent?

A. I do not know.

Q. Can you approximate it?

2269

A. I should say September, 1917.

Q. Before September, 1917, when were you there at Lynchburg?

A. I do not know.

Q. You do not know?

A. I was there in the summer some time, but I do not know just the date.

Q. Do you know Pat Knight?

A. I have seen him.

Q. Is he a crippled boy?

A. Yes.

Q. Do you know whether Mr. Williams was ever asked to handle "Pictorial Review"?

A. I believe he was.

Q. When?

A. I do not know.

Q. Well, how do you know he was asked?

A. He told me so.

Q. When did he tell you?

A. I do not know the date.

Q. Can you approximate that?

A. Some time in June, 1917, I think.

Q. Then when you went there in June, 1917, was there any other wholesaler there besides Mr. Williams?

A. I do not know.

Q. Was there any to your knowledge?

A. Not to my knowledge.

Q. Mr. Williams is the most efficient wholesale distributor of magazines there, isn't he?

A. Yes; he is.

Q. He handles the Hearst magazines and the "Motion Picture Magazine" there. Does Mr. Williams handle them, do you know?

A. Mr. Williams handles the "Motion Picture Magazine," I know.

Q. Who handles the "Hearst's"?

A. I do not know.

Q. When did you learn Mr. Williams was handling the "Motion Picture Magazine"?

A. The last visit I made to Lynchburg I remember he told me that the Curtis Publishing Company had given him permission to handle the "Motion Picture Magazine."

Q. Was this February 26th of that year?

A. That was some time in March, 1918.

Q. Did he say when he had given him permission?

A. No; he did not.

Q. You have been back there since you made this report?

A. Yes, sir; twice.

Q. I notice that you have not got it in your report; that was all.

A. Yes, sir.

Q. Has Mr. Knight got any equipment for distributing magazines?

A. I do not know.

Q. Did Mr. Williams ever handle "Pictorial Review"?

A. Not to my knowledge.

Q. Did you hear Mr. Smith testify this morning, from Washington?

A. Yes, sir.

Q. Did you hear him testify that Mr. Powers handled various magazines?

A. I did.

Q. He testified Mr. Powers handled "Jim Jam Jems" and several other smaller magazines?

A. Yes.

Q. I notice in your report you have not that.

A. I did not have "Jim Jam Jems."

Q. You do not have those smaller magazines?

A. What do I have?

Q. You have "Collier's Weekly" and the "Literary Digest."

A. That is all.

Q. And I notice you have "Pictorial Review" there. Was this correct when you made this report?

A. The fact that I left "Pictorial Review" out?

Q. Well, you say "magazines." Mr. Smith testified that he was handling other magazines.

A. Well, all I have on that report was all that I knew he handled at that time.

Q. Where did you get your information?

A. By calling on various dealers.

Q. You did not call on Mr. Powers?

A. I did not call on Mr. Powers, no.

Q. What is the Cumberland News Company, at Cmberland, Maryland?

A. The Cumberland News Company is merely a title for a news business run by a Mr.—I do not recall his name now, but——

Q. (Interposing.) O'Neill?

A. Yes, O'Neill.

Q. Is that affiliated with the American News Company?

A. It is not to my knowledge.

Q. How long has Mr. O'Neill been in business there, do you know, as a wholesale distributor of magazines?

A. I do not, but for several years, I understand. I happened to live near Cumberland, and I know that he has been in business for several years.

Q. How long has Mr. Bagant been your agent there?

A. I do not know the date of his first taking on.

Q. Was it a year ago?

A. Several years ago.

Q. Do you know how long the Cumberland News Company has been handling the Hearst group?

A. I do not.

Q. Did the Curtis agent ever handle it?

A. I do not think he did.

Q. Do you know?

A. I could not say positively, but it is my impression that he has never handled the "Hearst Magazine." That report shows that the Cumberland News Company are wholesalers for the Hearst group now, does it not?

Q. Yes. Do you know when it took it up?

A. No; I do not, but he has been wholesaling for some time.

Q. Did it take it on before it took on the "Pictorial Review," or after?

A. Before.

Q. Hagerstown, Maryland. Mr. Snyder is your agent?

A. Yes.

Q. And he also handles the Hearst group?

A. Yes.

Q. Do you know who wholesales the "Pictorial Review" in that territory?

A. I have talked to all the dealers, and they have told me that each dealer gets his copies direct.

Q. Did they ever try to get Mr. Snyder to handle it?

A. I do not know.

Q. Staunton, Virginia. Mr. Runnels is your agent, and he handles the Hearst group?

A. Yes.

Q. Did he ever handle the "Pictorial Review"?

A. He has not, to my knowledge.

Q. Was he ever asked to handle it?

A. He was.

Q. Do you know why he declined?

A. Because he did not get the consent of the Curtis Publishing Company.

Q. And he is the only agent in Staunton?

A. He is.

Q. Wheeling, West Virginia. George R. Kline News Company is the Curtis agent and handles the Hearst group and the Munsey group.

A. Yes.

Q. S. J. Shayne handles the Curtis publications?

A. Only the Curtis publications.

Q. Yes. Who is Shayne. Is that a sub——

A. (Interposing.) Yes; it is in an Ohio town. It is a branch agent of Mr. Kline.

Q. And Mr. Freese is the agent of the "Pictorial Review"?

A. Yes.

Q. Do you know how long Mr. Freese has been handling "Pictorial Review"?

A. He was handling it last July when I talked to him.

Q. Did you talk to Mr. Freese?

A. Yes, sir.

Q. About the "Pictorial Review" ?

A. He was a retail dealer of Mr. Kline's, and I went to see him and he told me that he was wholesaling the "Pictorial Review."

Q. Do you know whether Mr. Kline was ever approached to handle the "Pictorial Review"?

A. He was.

Q. Did he ever handle it?

A. Not to my knowledge.

Q. Do you know why?

A. Because the Curtis Publishing Company did not give its consent.

Q. Well, when the "Pictorial Review" tried to get the Kline News Company to handle their magazine, that

was the only magazine wholesale distributor in that city, wasn't it?

A. Well, I am not familiar with the conditions at the time that the "Pictorial Review" tried to place their agency.

Q. The "Pictorial Review" tried to place their agency in March, 1917. That is a matter of record.

A. I was in North and South Dakota at that time.

Q. You were in North and South Dakota in March, 1917?

A. Yes.

Q. I thought you were agent in this territory since August, 1916.

A. I had long-distance supervision of this territory.

Q. How often did you come into Wheeling?

A. I did not get there until during certain periods.

Q. When were you in there?

A. You mean the first time I ever visited Wheeling?

A. No; within the last year?

A. I have been there several times in the last year.

Q. Were you there last July?

A. Yes.

Q. Were you there last June?

A. No. I was in North Dakota then.

Q. Previous to July when were you in Wheeling?

A. I could not say.

Q. In all the time that you have been agent in this territory, do you know of any other wholesale distributor of magazines in Wheeling, outside of the Kline News Company?

A. No, sir; I do not.

Q. Did you ever hear of one?

A. No.

Q. Is it not possible that you would have heard of it if it had been there?

A. Well, it is possible, but——

Q. (Interposing): You knew that Mr. Freese was handling the " :Pictorial Review"—you found that out?

A. Yes; Mr. Kline told me.

Q. And Mr. Kline would have told you if there had been any other wholesale distributor there, wouldn't he?

A. Not necessarily.

Q. But you were sent there to find out what wholesale distributors were in that territory?

A. Certainly. I was there on that general business, to find that out?

Q. How did you know that Mr. Kline was asked to handle "Pictorial Review"?

A. He told me so.

Q. When?

A. When I was there.

Q. When was that?

A. In July.

Q. In what year?

A. 1917.

Q. You did not know it before that?

A. Well, as I said, I do not know positively whether I was in Wheeling on any visit before July, 1917, or not.

Q. Not at all that year?

A. No; there may have been a visit between the twelfth of May and the first week in July, but I do not know the date, and I am not positive whether I was there or not.

Q. Back of the twelfth of May to the first of January you say you were not in Wheeling, West Virginia?

A. No, sir; I was not. In order to make the thing clear, I spent February, March and April in North Dakota and South Dakota, and I was not in this territory at all.

Q. Where were you in May, 1917?

A. I came back on this territory to make regular visits on the twelfth of May, as well as I can recall.

Q. 1917?

A. 1917.

Q. Do you know whether or not Mr. Kline ever accepted the agency for the "Pictorial Review"?

A. He told me he did not.

Q. But I am asking you do you know whether he did?

A. Do I know whether he did accept it?

Q. Yes.

A. Well, not having been in this territory, I could not say positively. All I know about it is what he told me. He told me repeatedly.

Q. He told you in July that he did not?

A. That he did not.

Q. As a matter of fact before that, did not you know that he had accepted it?

A. I did not; no.

Q. Parkersburg, West Virginia. Ashton and Major are the Curtis agents and handle the Hearst group and the Munsey group?

A. Yes.

Q. J. Gale Ebert is the "Pictorial Review agent?

A. Yes.

Q. How long has he been agent for the "Pictorial Review"?

A. I do not know.

Q. When were you in that town previous to March 2, 1918?

A. The first visit prior to that?

Q. Yes.

A. I do not recall the date.

Q. Do you keep a memorandum of what towns you visit and the dates?

A. Yes.

Q. Have you got that memoranda with you?

A. No, sir; but I have a duplicate of every report I make for each day, and I know just where I have been.

Q. Were you in Parkersburg, West Virginia, in May, 1917?

A. No, sir.

Q. In June, 1917?

A. Well, I am uncertain about that, just like I am about the Wheeling visit, whether I was there or not.

Q. Previous to taking on the "Pictorial Review" Mr. Everts was not handling any magazine wholesale, was he?

A. No, sir.

Q. And Ashman and Major were the only wholesale distributors of magazines within that town—is not that so?

A. They were.

Q. Do you know whether the "Pictorial Review" tried to get Ashton and Major to handle their magazines?

A. I do not know.

Q. They are the real efficient wholesale distributors, Ashton and Major, for magazines?

A. They are one of them.

Q. Are not they the largest and most officient?

A. They wholesale more magazines than Mr. Eberts.

Q. Are not they the only ones there besides Mr. Eberts, who only wholesales the "Pictorial Review"?

A. Ashton and Major are the only other wholesalers besides Mr. Eberts.

Q. And they have been in business a longer time, too, haven't they?

A. No, sir; they have not.

Q. They have not?

A. No, sir.

Q. When did Ashton and Major become the Curtis representatives there?

A. I do not know the date.

Q. Were they the agents before you came in that territory?

A. Yes. They were agents when I came in this territory, but Mr. Eberts was in business in Parkersburg when I was a youngster.

Q. Yes, but I am talking about wholesaling magazines. Have not Ashton and Major been wholesaling magazines much longer than Mr. Eberts?

A. They have.

Q. What facilities has Mr. Eberts for wholesaling magazines?

A. I do not know. Mr. Eberts has the main book store and stationery and office supply store of the town and a very large business.

Q. But how does he reach the retailer?

A. I do not know.

Q. How do Ashton and Major reach the retailer?

A. By auto truck delivery.

Q. You do not think Mr. Eberts would maintain an automobile to distribute the "Pictorial Review," do you?

A. He would maintain an automobile——

Q. (Interposing.) I am talking about the "Pictorial Review."

A. Not alone; no.

Q. Huntington, West Virginia. The Fountain News Company handle the Curtis publications and the Hearst group and the Munsey group. Did the "Pictorial Review" ever try to get them to handle their magazine?

A. I do not know.

Q. How long has the Fountain News Company been in business there, that handles the Curtis publications?

A. They have been in business since I have been

with the Curtis Publishing Company, since the date that I have mentioned.

Q. What do you mean? What date? You mean in August, 1916?

A. Yes. They have gone into business since that date.

Q. They have gone into business since that date?

A. Yes.

Q. Do you know when they went in?

A. I do not know the exact date.

Q. Who made the contract with them?

A. With the——

Q. (Interposing.) The Fountain News Company?

A. It was transferred—the agency was transferred by mail.

Q. From whom?

A. By the home office.

Q. From whom?

A. O. F. Hoffman, I believe, was the predecessor.

Q. What is he doing now?

A. He is in some other kind of business. I do not know what he is doing.

Q. Did he ever handle the "Pictorial Review"?

A. I do not know. At the time that the Fountain News Company went in business I did not have Huntington as a part of my territory.

Q. Who did?

A. As I recollect it, Mr. O. H. Kirkland.

Q. Kirkland?

A. Probably Mr. Hall can state.

Q. Fairmont, West Virginia. Mr. E. C. Stemple handles Curtis publications, "Collier's Weekly," and Mr. Harry Nethkin is the "Pictorial Review" agent?

A. There is a misspelling of that word. It should be Neptune.

Q. Do you know how long Mr. Neptune has been handling the "Pictorial Review"?

A. He was handling it the middle of the summer of 1917.

Q. How long has Mr. Stemple been your agent?

A. Mr. Stemple is not at present our agent.

Q. When did he cease being your agent?

A. About a month ago.

Q. Who is your agent now?

A. A. G. Martin and Company.

Q. A. G. Martin was your agent only up to about a month ago?

A. A. G. Martin and Company were our agents up to December, 1917. Mr. Stemple was our acting district agent up until about a month ago, and A. G. Martin and Company resumed the agency about a month ago.

Q. Do you know why Mr. Martin ceased acting as your agent from December to March?

A. He sold out his newspaper wholesaling business to Mr. Stemple, and at the same time A. G. Martin and Company told Mr. Stemple he could wholesale the Curtis publications, and I was not in Fairmont until some time after that, and I told A. G. Martin and Company that they could not relinquish their agency, because we could not place the agency with Mr. Stemple, and Mr. Stemple merely acted as acting agent, acting district agent, until the time that A. G. Martin and Company were reinstated.

Q. Why could not Mr. Stemple act as your agent?

A. I had instructions from the home office not to place the agency with Mr. Stemple.

Q. Was there any reason given why Mr. Stemple could not handle the business?

A. What is that?

Q. Was the reason given that Mr. Stemple was handling the "Pictorial Review"?

A. No, sir.

Q. Did it have reference in any way to the "Every Week" or any other magazine?

A. The only instructions that I had were that Mr. Stemple was not eligible to receive the Curtis contract, and A. G. Martin and Company were to be reinstated as the agents, or some other agent obtained.

Q. And when did you reinstate them?

A. About a month ago.

Q. That would be about the seventh of April—is that true?

A. About that; yes; sometime in April.

Q. Do you know whether Mr. Stemple, while acting as the agent of the Curtis Publishing Company, ever handled "Every Week"?

A. I do not.

Q. Do you know what date in December Mr. Martin gave up handling the Curtis publications?

A. About the middle of December, as I recall.

Q. Do you know who the secretary is of A. G. Martin & Company?

A. Edward Taylor—E. M. Taylor, I think his name is.

Q. So that, aside from the agent who handles "Pictorial Review," the A. G. Martin Company is the only wholesale distributor in Fairmont, West Virginia? That has been the only wholesale distributor of magazines in West Fairmont, West Virginia, for the past year and a half?

A. Mr. E. C. Stemple is wholesale distributor of magazines.

Q. But he simply succeeded Mr. Martin, did he not?

A. Well, yes, but right now Martin & Company are our agents, while Mr. Stemple continues as a wholesale distributor of magazines in Fairmont.

Q. What did Mr. Stemple wholesale in the magazne line before he bought out the Martin Company?

A. He was not in the magazine wholesale business.

Q. Prior to the time that Mr. Stemple bought out Martin, Martin & Company was the only wholesale distributor in Fairmont, West Virginia, for a year or two —was not that true?

A. I do not know just what the dates were, but for a while.

Q. As long as you have been in that territory—is not that true?

A. No, sir; because what was known as the Fairmont News Company, which was a subsidiary of the "Fairmont Times," a local paper, was in the wholesale business there.

Q. Handling what?

A. I do not know what they handled, but they were in the wholesale news business.

Q. But, so far as you know, they did not handle magazines, did they?

A. I would not say that.

Q. But, so far as you know?

A. Well, I have a feeling that they did, because I called to see them. They were a dealer of A. G. Martin & Company. I called to see them several times.

Q. They were a dealer of the A. G. Martin Company?

A. Yes.

Q. And the A. G. Martin Company served them?

A. Yes.

Q. So that really A. G. Martin & Company was the only wholesale distributor there for magazines—is not that so?

A. No.

Q. I cannot understand you. You say that is not so, and then you say that they were serving the Fairmont News Company.

A. That does not mean that the Fairmont News Company could not be a wholesaler of magazines and

at the same time be a retailer of the magazines of the Curtis Publishing Company. A. G. Martin & Company——

Q. I am asking you if you know.

A. I canot say positively.

Q. Clarksburg, West Virginia. Mrs. M. Jones handles the Curtis publications and the Southeast News Company handle the "Pictorial Review," the "Literary Digest" and "Collier's Weekly"?

A. Yes.

Q. How long has Mrs. Jones been your agent?

A. Since December, 1917.

Q. Who was your agent before that?

A. Mrs. Jones' son.

Q. Where is Mrs. Jones' son now?

A. He is going to school and after school hours he is working.

Q. How long was he agent there?

A. He was our agent from May, 1917, until his mother became the distributor, the agent.

Q. Who was agent before Mrs. Jones' son?

A. Well, prior to the time that Mrs. Jones' son became the distributing agent, the three months preceding that is the time that I spent in North and South Dakota, in the Northwest, and I cannot say exactly just what the agency conditions were.

Q. After you went to South Dakota, who was the agent of the Curtis Company there?

A. William Koerner.

Q. How long has the Standard News Company been in business there?

A. The Standard News Company is the business which Mr. Koerner used to own, but which is now owned by a different man.

Q. I understand that the Standard News Company was in reality the Curtis agent before Mrs. Jones' son took the agency.

A. There was another agent, at least one more, between the time that Mr. Koerner was the agent and the time when Mrs. Jones' son was the agent.

Q. Who was that?

A. The Glen Elk News Company.

Q. How long were they the agents?

A. I do not know the time.

Q. Was the Standard News Company the agent of the Curtis Company in April, 1917?

A. The Standard News Company?

Q. Yes.

A. I do not know.

Q. Do you know whether they ever handled the Curtis publications at the time that they were handling the "Pictorial Review"?

A. To my knowledge, they did not.

Q. Did not you get a report of these towns while you were up in Dakota?

A. Not on all of them; no.

Q. You did not know what was going on at all until after this two months' time in this territory?

A. Oh, yes; I did.

Q. Did not you know whether the Standard News Company handled the Curtis publications at the time that they handled the "Pictorial Review"?

A. Well, as I say, I do not know who was the Curtis agent during that month.

Q. Did not you know that the Curtis agency was canceled with the Standard News Company for handling the "Pictorial Review"?

A. No, sir.

Q. You did not know that?

A. No, sir.

Q. Do you know that it was not?

A. To my knowledge it was not.

Q. How far does your knowledge go?

A. Well, of the general conditions in Clarksburg no such thought as that has ever come in my mind.

Q. Well, you were away two months, April and May? Did you know what was going on there in April and May?

A. I was away during February, March and April.

Q. Did you know what was going on in April?

A. No, sir; I did not know. I cannot tell you right now. I received reports while I was in North and South Dakota regarding the activities in the various towns.

Q. Did you get any report of any activities in Clarksburg?

A. I cannot say right now.

Q. You do not know from memory?

A. No.

Q. Roanoke, Va. Mr. O. P. Estes is the Curtis agent, and Mr. O. H. Goad is the "Pictorial Review" agent?

A. Yes, sir.

Q. How long has Mr. Goad been the agent for the "Pictorial Review"?

A. He was the "Pictorial Review" agent in July, 1917, so the dealers in Roanoke told me. Mr. Goad did not tell me that, but they told me that they got the Curtis publications from him.

Q. How long has Mr. Estes been your agent?

A. Since the first week in October, 1917.

Q. Who was the agent before that?

A. Mr. C. L. Richardson.

Q. What became of him?

A. He is at present in the circulation department of the local paper at Roanoke.

Q. Did he ever handle the "Pictorial Review"?

A. No, sir.

Q. Mr. Richardson was the only wholesaler there before "Pictorial Review" went in, wasn't he?

A. I do not know.

Q. Do you know of any other?

A. I do not know of any other.

Q. Who handles the Hearst magazines there?

A. The agents tell me that they get them direct. Each dealer gets his copies direct from New York.

Q. How about "Motion Pictures"?

A. I do not know about "Motion Pictures."

Q. How about "Collier's Weekly"?

A. Mr. Estes distributes "Collier's Weekly."

Q. Well, you have not got that on here. (Indicating report.)

A. Well, he does now. I do not think he did at the time that report was made.

Q. Who distributes the Munsey group?

A. I do not know, but the understanding that I got from all the dealers was that each man got as many of his copies direct as he could, and the others he got from the news company.

Q. Charleston, W. Va. Ashton & Major handle the Curtis and Hearst group and the Munsey group?

A. Yes.

Q. And Prentice Ashton Company handles the Pictorial Review?

A. Yes.

Q. What is that Prentice Ashton & Co.?

A. It is a wholesale cigar and tobacco business.

Q. Any relation to the Ashton-Major crowd?

A. Mr. Prentice Ashton is a stockholder in the business of Ashton & Major.

Q. Ashton & Major were the only wholesalers at the time that the "Pictorial Review" went inedependent?

A. So far as I know.

Q. Did Ashton & Major ever handle "Pictorial Review"?

A. Not to my knowledge.

Q. Bluefield,, West Virginia. J. S. Godbey is the agent for the Curtis publications and the "Collier's Weekly," and C. R. Godsey handled the Hearst group and the Warner group?

A. Yes.

Q. Who handles the "Pictorial Review" there, do you know?

A. From what I found out, they got their copies direct or through the news companies. There are not any wholesalers there that I could find out.

Q. Where did you get this information there that they got them direct—the retailers?

A. I said that they got them either direct or from the news companies.

Q. What news companies?

A. The Baltimore or Washington News Company.

Q. Where did you get that information from?

A. That is what Mr. Godbey, our agent, said.

Q. He told you that?

A. Yes, but I say I am not positive whether he he said from the News Company or direct, but they had been supplied split up is what he said.

Q. You do not think that Mr. Godsey is a "Pictorial Review" wholesaler there, do you?

A. I did not find out any such knowledge as that.

Q. You went there to find that out, didn't you?

A. Yes.

Q. As a matter of fact, Mr. Godsey has been handling it since May, 1917. How is it that you did not get that information?

A. I did not find it out.

Q. Did you go to Mr. Godsey?

A. I did not talk to Mr. Godsey.

Q. You do not know that he handles the Hearst group and the Warner group?

A. Mr. Godbey told me.

Q. Did he tell you that he was not handling "Pictorial Review"?

A. He did—no, he told me that he, Mr. Godbey, was not.

Q. But did he tell you that Mr. Godsey was not?

A. I asked him what magazines Mr. Godbey was wholesaling, and he gave me that information, and I noted that on the report.

Q. As a matter of fact, Mr. Guthrie, this man Godsey has been wholesaling "Pictorial Review" since the beginning, and your information is very deficient.

MR. MILBURN: Does that go on the record? If that is testimony, you ought to be sworn.

MR. WELCH: We object to that.

EXAMINER MOORE: Do you wish to withdraw it, or shall I rule on it?

MR. SPIESS: I do not care. I withdraw it.

By MR. SPIESS:

Q. Petersburg, Va. H. B. Stowe is the Curtis agent, and J. T. Powers is the distributor for "Literary Digest," "Collier's Weekly" and "Pictorial Review"?

A. Yes.

A. How long has Mr. Stowe been the Curtis agent?

A. I do not know the date he began. Petersburg was not a part of my territory at the time Mr. Stowe became agent.

Q. How long has Petersburg been a part of your agency?

A. Since the first of last October.

Q. 1917?

A. Yes, sir.

Q. Do you know whether Mr. Stowe was ever asked to handle "Pictorial Review"?

A. I do not.

Q. Since you have been on this territory, have you changed the parties to any Curtis agency?

A. Have I changed what?

Q. The parties. Have you changed the individuals who were Curtis individuals and put in new individuals?

A. Yes.

Q. In how many cases?

A. I do not know the total number.

Q. Can you approximate it?

A. Oh, I should say ten.

Q. Do you know the names of the towns where you have changed these agencies?

A. Yes.

Q. What are they?

A. Winchester, Virginia; Roanoke, Virginia; Charlotteville, Virginia. May I ask this question? This refers to transferring from one party to another, and not the establishment of an agency in a town where there was no Curtis agent before?

Q. No; I just want to know where you have changed the parties, Mr. Guthrie.

A. Grafton, West Virginia; Clarksburg, West Virginia. Let me ask another question. Did you have reference to towns where I have personally made the transfer, or do you want towns where the transfer has been made even by mail from the home office?

Q. No. I just want to know what you know about it; transfers that you have made.

A. When I was in the towns myself?

Q. Yes.

A. The last one I gave you was Clarksburg, West Virginia?

Q. Yes.

A. Bluefield, West Virginia. That is all. Baltimore, Maryland, can be added to that list. I personally looked after that.

Q. You made that change here, didn't you?

A. Yes, sir; that is all.

Q. When did you make the change here in Baltimore?

A. In January, 1917, but it was not effective until February. That was the time of Mr. Thomas taking charge.

Q. Before Mr. Graves was the agent here, who was the agent of the Curtis Company?

A. Grape & King. Mr. Graves was the district agent when I was superintendent here first in Baltimore.

Q. He was a salaried employe of the Curtis Publishing Company, was he not—Mr. Graves?

A. Mr. Graves? I do not know whether he was a salaried employe. He received remuneration in addition to the regular commissions on the copies that he distributed.

Q. What did he do before he became district agent?

A. He was superintendent of agencies of the Curtis Company.

Q. Did they take him off the payroll after he became agent here?

A. You mean he did not receive a regular salary as I do at the time he was district agent here?

Q. Didn't he?

A. He did not.

Q. Was he under contract with the Curtis Company as a district agent?

A. He was.

Q. And he did not receive any salary at all while he was district agent?

A. Why, he received a compensation in addition to the profits he made on the copies.

Q. What do you mean by a "compensation in addition to the profits"?

A. That is, he received a bonus for maintaining the sales above a certain set figure.

Q. Was it or not a fact that Mr. Graves was guaranteed so much per week for his services here in Baltimore as district agent?

A. No, sir.

Q. He was not?

A. No, sir.

Q. How did Mr. Graves come to become agent here?

A. He accepted the agency from the Curtis Publishing Company.

Q. Had you made any efforts to get other agents before you asked Mr. Graves?

A. I do not know, because I was not superintendent in this territory when he became district agent.

Q. You were not?

A. No, sir.

Q. Who was district agent?

A. He was the district agent when I came here as superintendent.

Q. When you say he did not receive a guarantee of a stated remuneration for his services, you do not know of your own knowledge, do you?

A. I know of my own knowledge that he worked similarly to other district agents, in that the larger the circulation he had the more money he made.

Q. That was on the sale of his magazines?

A. Yes.

Q. But do you know of your own knowledge that they did not guarantee him a stated sum?

A. I do not know that they guaranteed to him a stated sum.

Q. When did you first learn that Mr. Graves was going to give up this agency?

A. The first day of January, 1917.

Q. That was the first you knew of it?

A. Yes, sir.

Q. How did you know of it then?

A. Mr. Graves told me while I was in his office up on Clay Street.

Q. Had he informed the Curtis Publishing Company prior to that?

A. He told me that day. He says: "I have written my resignation and am sending it in today."

Q. Today?

A. Yes, sir.

Q. Then he had not notified the Curtis Publishing Company before January 1st, 1917?

A. How is that?

Q. He had not notified the Curtis Publishing Company, then, before January 1st, 1917?

A. He supplemented that by saying, "This is my thirty days' notice of the termination of my contract."

Q. And that was on January 1st, 1917?

A. Yes.

Q. Is that so?

A. Yes.

Q. You heard Mr. Thomas testify here today, didn't you?

A. Yes, sir.

Q. You heard him testify that he was offered the Curtis agency here in Baltimore some time in October or November, 1906?

A. I heard him say that the Superintendent of Agencies, who had supervision over Baltimore at that time, wrote to him and asked him how he would like to have the Baltimore agency.

Q. Yes; that was in October or November, 1906?

A. No; I do not know what date it was, but I know it was in the autumn, some time.

Q. After Mr. Graves told you that he was going to leave, did you make arrangements to get someone else?

A. I immediately got in touch with the home office.

Q. Was that the end of your efforts?

A. I received a reply from the home office to the effect that Mr. Thomas, who was then our Distributing Agent in Newport News, was anxious to come to Baltimore and get the Baltimore agency, and that I was to come to Philadelphia on the ninth of January, 1917, to meet Mr. Thomas, who was to come from Newport News to Philadelphia, and see Mr. Thomas and talk with him and give the home office staff an idea of what I thought about Mr. Thomas' qualifications for the district agency in Baltimore.

Q. These other agencies that you changed, were any of them changed for handling "Every Week" or the "Pictorial Review"?

A. They were not.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Guthrie, you testified on your direct examination that you went out and made your investigation in your district to find out certain information required for the Curtis Company; is that correct?

A. Yes, sir.

Q. And you based these reports which we have referred to on the information which you then gathered. Am I correct about that?

A. I did; yes, sir.

Q. And I assume you did your best to get accurate information, did you?

A. I used every effort I could, and when I left those towns I thought I had complete reports, and had left nothing undone which would make a complete report from that town.

Q. You have changed certain agencies?

A. Yes, sir.

Q. Have you had any difficulty getting your agents?

A. No, sir; I have not.

Q. All the information or data given is of the date of the report and of the specified time?

A. Yes, sir. It is like it appears on those sheets.

Q. Bluefield is February 28th, 1918?

A. Yes, sir.

Q. That was the situation you found it to be?

A. Yes, sir; on that day.

Q. Do you know of your own knowledge who made the arrangement with Mr. Graves, whatever it was?

A. At the time he became District Agent?

Q. Yes.

A. It was made in the home office.

Q. But you did not make it yourself?

A. I did not make it. Mr. F. W. Baker, who testified in New York, was the superintendent here then.

Q. You did not have anything to do with Mr. Graves' contract?

A. I had nothing at all to do with it.

Q. All the information you have on that is what you have here (indicating report)?

A. Yes.

MR. MILBURN: I think that is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. You made the arrangement with Mr. Thomas, didn't you?

A. I helped to make the arrangement with Mr. Thomas.

Q. He was given a guarantee, wasn't he?

A. For a certain time he was given a bonus for maintaining sales above a certain set figure.

Q. I am not asking you that question at all. Answer the question. Was not he guaranteed a certain sum of money for his services?

A. Well, as well as I recall it, it was just as I have started to tell it.

Q. If it was a bonus, that does not answer the question. Say yes or no. Did the Curtis Publishing Company guarantee him a stated sum per week or per month, if you know?

A. I cannot say definitely.

Q. Did you hear him testify today?

A. I did, but I am speaking from what I know.

Q. You testified that you went to the towns and got this information from the most reliable sources.

A. What I thought was the most reliable sources, yes, sir.

Q. You think it is the most reliable source to go into a town and get information about a man's business from his competitor?

A. I think I can find out who is wholesaling magazines in a town by going to the people that retail magazines.

Q. Don't you think you could find out better by going to the man himself?

A. Yes.

Q. Then you did not go to the best source to get the information, did you?

A. I did not say that of every town. This particular instance——

Q. (Interposing) Did you, in general, go to all the wholesale distributors in these towns to get information as to what they were handling?

A. Not every one of them.

Q. Were not they the best sources of information?

A. Well——

Q. (Interposing) Just answer yes or no.

A. No.

Q. They were not?

A. No; because I figure that the retail dealer can give me information as to that.

Q. Can the retail dealer give you better information than the man himself who is selling to the retailer?

A. I do not say that he could give me better information, but he can tell me what his source of supply is.

Q. Then you stick to that, then, that the man who is selling the article cannot give you any better information than the man who is buying it from him, as to what he is selling?

A. Naturally the man who was wholesaling would know his own business better than the man who was retailing, of course.

MR. SPIESS: That is all.

By MR. MILBURN:

Q. The retail dealers purchase their magazines from the different wholesalers in the towns, do they not?

A. They do.

Q. And they are apt to know where they can get them—is that correct?

A. Naturally; that is what I thought. Nobody outside of the retailer of magazines would be buying magazines from the wholesaler, and if the combination of retailers told me the same story, I would certainly believe that that is the condition that existed there.

By MR. SPIESS:

Q. As a matter of fact, you have testified that you went to one man and asked him about another man, but you did not get the correct information, and I am trying to find out the best sources of information.

A. I will agree that in Bluefield I did not know that Mr. Godsey was a "Pictorial Review" wholesaler.

By MR. MILBURN:

Q. There is no proof that he is or ever was at the date of the making of this report.

MR. MILBURN: So I move that be stricken off.

MR. SPIESS: We expect to prove that.

MR. MILBURN: That is all right, but I, for the present, make the motion that it be stricken from the record.

(After informal discussion which was asked not to be reported):

THE WITNESS: That is not exactly it. I inquired what Mr. Godsey did wholesale, and what is on this sheet shows what information I got, and I did not get—it is a sort of a sin of omission that I did not get it, you see.

By MR. DALY:

Q. You did not get it from Mr. Godbey?

A. I did not get it from Mr. Godbey or any of the dealers I found.

By MR. SPIESS:

Q. I just want to find out how you got your information. As a matter of fact, now, do all dealers get their magazines from these wholesale distributors?

A. In some instances they do not, but it is very rare, generally speaking, that the retailers in a town do not get their copies from the local wholesaler.

By MR. DALY:

Q. In small towns does that hold good?

A. How is that?

Q. In small towns, do they get them from the local wholesaler, as a rule?

A. I found it so; I could cite an instance. You cite an instance, what sized town and how many dealers? What do you mean?

Q. Those towns you are talking about.

A. I found it pretty generally true that if there is a local wholesaler in the town wholesaling Curtis publications and Hearst publications, all the retailers in that town will get their copies from that wholesaler.

By Mr. Welch:

Q. From what other sources would they get them if they did not get them from the wholesaler?

A. They would get them direct, or from the American News Company, or one of its branches.

Q. But if they could get them in that town, they would get them from the wholesaler, would they not?

A. Yes, sir.

(Whereupon, at 4.10 o'clock P. M., an adjournment was taken until tomorrow, Wednesday, May 8th, 1918, at 10 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission,
v.
The Curtis Publishing Company.
} Docket No. 15.

Room 305, Federal Bldg., Baltimore, Md.
Wednesday, May 8th, 1918, 10:00 A. M.

The above-entitled matter came on for further hearing, pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

JOHN W. WEILER, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Weiler, what is your business?

A. I am superintendent of agencies.

Q. For what company?

A. The Curtis Publishing Company.

Q. How long have you been a superintendent of agencies?

A. About five years.

Q. What district do you cover?

A. Western Pennsylvania and Eastern Ohio.

Q. How many towns or cities have you under you?

A. Forty-six.

Q. And in each of those towns is there one agent?

A. Yes, sir; and sometimes more than one—one Curtis agent you mean?

Q. Yes.

A. Yes, sir.

Q. So you are familiar with this district—you have been in all the towns, have you?

A. For three years; yes, sir.

Q. And know all the agents?

A. Yes, sir; every one.

Q. Have you, in the last three months, made, at Mr. Douglas's request, a special investigation to find out certain facts, which you reported to the Curtis Publishing Company?

A. Yes, sir.

Q. And those reports went in town by town?

A. Yes, sir.

Q. And they are the pink and white slips which we have here?

A. Yes, sir.

Q. In making your investigation, what steps did you take when you went to a town?

A. My object was to find out how many wholesalers of magazines and newspapers there were in those towns and how many——

Q. What did you do?

A. I went to the district agents and occasionally to the dealers—where I was not satisfied the information was all right, I went to the dealers.

Q. You used all available sources of information?

A. Yes, sir; wherever I thought I could get it.

Q. You say you have forty-six agents under your supervision?

A. Yes, sir.

Q. Of the forty-six, how many wholesale only Curtis publications?

A. All but, I think, seven of them.

Q. Then, that is thirty-nine?

A. Yes, sir.

Q. Of the forty-six, how many began the magazine business with the Curtis Publishing Company?

A. My figures show all but five.

Q. That is forty-one?

A. Yes, sir.

Q. And how many towns covered by your district have but one wholesaler?

A. I have it down here at thirty-one, I think—yes, thirty-one. You mean our publications?

Q. No; I ask you in how many of the forty-six towns which you cover is there only one wholesaler?

A. Thirty-one—oh, no, that is wrong; that should be nineteen.

Q. You made your investigation to find out the situation that these figures show, did you not?

A. Yes, sir.

Q. That is what you inquired for?

A. Yes, sir.

Q. And in addition to the time covered by the investigation, you were familiar with all the cities, were you not—you had been in all of them before?

A. Yes, sir.

Q. During the last year, have you changed many agents?

A. Yes; I have changed quite a few of them.

Q. Have you had any difficulty in locating a new agent when you had to make a change?

A. No, sir; I did not.

Q. What are your agents—what business have they?

A. What class of people, you mean?

Q. Yes; what class of people, roughly speaking?

A. I have eight or nine out of them who are boys, and then the balance—some are druggists and some are stationers. That is about the general line.

Q. Some of them are in the newspaper business?

A. Some are in the newspaper business; yes.

Q. Some are newspaper men?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How long were you making this investigation?

A. I think it took me about sixty days—just about sixty days.

Q. Can you name the towns where the wholesalers are who handle Curtis and other magazines and newspapers?

A. Curtis agents that handle other magazines besides?

Q. Where the dealers are that handle other magazines and newspapers besides the Curtis magazines?

A. Now, some handle other magazines and no newspapers—I think I can give you the information, though.

Q. Yes.

A. There would be Pittsburgh and Erie and Warren and Newcastle, Steubenville—those would be the towns.

EXAMINER MOORE: Warren, Ohio, or Warren, Pennsylvania?

A. Warren, Ohio.

By MR. DALY:

Q. In those towns the dealers out of this number that you have testified about handle Curtis——

A. And other magazines.

Q. And newspapers?

A. And newspapers; yes, sir.

Q. Now, then, give me the towns where the dealer handles your magazines and other magazines?

A. That would be Wilkinsburg, Pittsburgh, Erie, Newcastle, McKeesport, Pennsylvania; Warren, Ohio, and Steubenville, Ohio.

Q. You have given me them—they handle newspapers?

A. They handle also newspapers.

Q. I will ask you for the additional towns where the dealer handles nothing but the Curtis magazines and other magazines.

A. I gave you the other magazines, as far as I knew.

Q. Those are the only ones that handle other magazines, that you have named?

A. Yes, sir.

Q. Now, then, give me the names of the ones who handle your magazines and newspapers only?

A. That is pretty hard to do. I have no records of it.

Q. Your reports will show that, will they not?

A. Yes, sir; the reports will show. If you will mention the towns, I will be pretty apt to tell you the conditions there.

Q. You testified about making certain changes?

A. Yes, sir.

Q. Why did you make changes of any agent?

A. Oh, I had several reasons for making changes.

Q. What were they?

A. Mostly inefficiency and sometimes because they handled the "Pictorial Review." If you mention a specific town that I changed, I will tell you why I changed it.

Q. Will you name the towns where you changed them because they handled the "Pictorial Review"?

A. Oil City, Pennsylvania; Ashtabula, Ohio; Homestead, Pennsylvania—those are all I think I changed on account of violation of contract.

Q. Now, in Oil City, who was the agent you changed there?

A. The Oil City News Company, it was called.

Q. And it handled the "Pictorial Review"?

A. Yes, sir.

Q. And your publications?

A. And ours; yes, sir.

Q. And what did you do with it, then?

A. I gave it to Ed. Delahoyde.

Q. What did the Oil City News Company handle?

A. All of the New York and Philadelphia papers —Pittsburgh papers and the Hearst group.

Q. You had them under contract?

A. They were under contract with us.

Q. Were they the leading wholesalers there at that time?

A. Of newspapers—yes, they were.

Q. Did they ask permission to handle the "Pictorial Review"?

A. I do not think they did. They might have. I do not know.

Q. Did they ask you?

A. No.

Q. You were instructed to go and change them?

A. Yes, sir; to go and change the agency.

Q. What other wholesaler was there when you changed there?

A. Is there anything there on my sheet that shows another wholesaler? I hardly think there were any others. I do not hardly think there were any others. You mean newspapers or magazines?

Q. Magazine wholesalers?

A. There were no other magazine wholesalers.

Q. When did you make that change in Oil City?

A. I think—it was December.

Q. Have you put these agents under the new contract?

A. Yes; all are under the new contract.

Q. And in fixing the bond was it fixed commensurately with the number of magazines they were handling?

A. With the risk involved; yes, sir.

Q. Now, in Newcastle, your report shows that the Treadwell News Agency handle your publications?

A. Yes, sir.

Q. And also handle the daily papers—certain daily papers?

A. Yes, sir.

Q. How long has the Treadwell News Agency been your agent?

A. It must have been a long time before I got in the territory. It was there before I got there.

Q. Is the Treadwell News Company one of the organizations that first handled your papers?

A. I believe that the Treadwell News Company originally started with the Curtis publications, but Mr. Jim Ray is the successor to the Treadwell News Company—that is, to Mr. Treadwell. Mr. Treadwell died and Mr. Ray succeeded him, and the contract was made in the name of Mr. J. T. Ray.

Q. Ray and the Treadwell Company being the same?

A. Yes, sir; but Ray did not start in with our publications. I think the Treadwell News Company did start with the Treadwell publications.

Q. Ray did not?

A. No, sir.

Q. As far as this data goes, they handle Hearst, your publications and "Pictorial Review"?

A. Yes, sir.

Q. And you have not changed them?

A. No, sir.

Q. Why not?

A. I have not been able to get to Newcastle. I was there about a month ago, but Mr. Ray was out of town.

Q. Have you made any other effort since then?

A. Not since a month ago. I had intended to go there about a week ago.

Q. How many times have you been there since about a year ago?

A. Five or six times.

Q. You have never made any effort to change them?

A. No, sir.

Q. There is no other wholesaler there?

A. No other wholesaler there. I did want to change it at the time Mr. Ray was out of town about a month ago.

Q. Did you succeed in changing it?

A. He was not home.

Q. Whom would you have to see about it? You would have to find somebody to take it, would you not?

A. I would have no trouble about that. I have two or three people in mind.

Q. Who are they?

A. Shall I have to tell them?

Q. Yes.

A. One is a druggist by the name of Pritchard.

Q. Have you spoken to him about it?

A. I have his application.

Q. Who is the other one?

A. The other one is only a surmise, but I would like to bet some money I could get him.

Q. No; do not give us any surmises now.

A. His name is Metzer.

Q. Have you seen him?

A. No, sir; not directly.

Q. You did not have any communications with him?

A. I could not take oath I could get him, of course.

Q. Who is the other one?

A. Did I say three?

Q. Yes.

A. The other one I would find within an hour.

Q. You have him in mind?

A. I have not the name in mind, but I would pick him when I got there.

Q. We are talking here about real men. As a matter of fact, you have had it in your mind to change this agency for a long time?

A. Yes, sir; I was there once for that purpose, but the agent was out of town.

Q. At Meadville, Pennsylvania, the Meadville News Company, being Fred B. France, handles newspapers there and also handles your publications?

A. Yes.

Q. He is the leading man there, is he not?

A. No, sir.

Q. Who is?

A. He is not even one of the leading men.

Q. Your paper shows there was no one else there but A. A. Whitney, and he only handles "Collier's." I am going by your papers.

A. Let me see that sheet a moment. This is a lady.

Q. Did you make much of an investigation at Meadville?

A. I spent half a day there.

Q. Why did you not put it all on there?

A. What is not there?

Q. You say there was a lady there?

A. I think her name is Whitney.

Q. She only handles "Collier's," according to your report?

A. Maybe she does not wholesale.

Q. Was not this report correct at that time?

A. To the best of my knowledge, yes.

Q. It has on here "A. A. Whitney," and the Meadville News Company.

A. The Meadville News Company does not handle anything but magazines.

Q. You said there was "no other wholesaler" in great big letters.

A. Well, we have wholesalers of magazines—she wholesales "Collier's." Do I have that there?

Q. Yes.

A. Well, then, let that report go as it stands. I will stick by that, because I was there at the time.

Q. You want to stick to that?

A. Yes, sir.

Q. At Homestead, Pennsylvania, how long were you there making your investigation?

A. I was not there very long—nobody will stay there very long.

Q. How long did you stay?

A. About half a day.

Q. Whom did you see there in making this investigation?

A. I did not have to go very far because my District Agent told me all I wanted to know.

Q. You say here you made a personal investigation?

A. Yes, sir.

Q. Whom did you see there?

A. I saw the District Agent there and he told me what I wanted.

Q. Miss Lillian Fiest——

A. She handles certain newspapers.

Q. And A. McConagle handles "Pictorial Re-

view" and Munsey's publications, and Krouse handles your publications?

A. Yes, sir.

Q. How long has Krouse handled your publications?

A. I just appointed him about three months ago.

Q. Whom did you have before?

A. McConagle.

Q. He was the leading magazine wholesaler there when you changed him?

A. Yes, sir.

Q. Was he one of the men you changed because he handled "Pictorial Review"?

A. Yes, sir.

Q. At Duquesne, Pennsylvania, the Fulton Brothers handle newspapers, and Mr. Beck was your agent, and Fulton Brothers handle the Hearst publications, "Literary Digest" and "Motion Pictures"?

A. Yes, sir.

Q. Is Ray Beck an old agent of yours?

A. Yes, sir.

Q. He has been there a long while?

A. I found him there.

Q. When did you find him there?

A. Three years ago.

Q. Fulton Brothers have been there how long?

A. They were also there when I got there.

Q. Are they wholesalers?

A. Yes, sir; they wholesale magazines. There is very little wholesaling of any kind going on there.

Q. Do you know how long he handled "Literary Digest" and "Motion Pictures"?

A. I do not know.

Q. You went to Steubenville, Ohio?

A. Yes, sir.

Q. How long did you stay there making your investigation?

A. About half a day.

Q. Whom did you see?

A. Our District Agent.

Q. You have on here that you made a personal visit?

A. Yes, sir.

Q. In what cases did you not make personal visits?

A. When I called up on the phone.

Q. When you called up on the phone?

A. Yes, sir.

Q. How many cases do you think you called on the phone?

A. Three or four—little towns.

Q. Fisher is your agent. He handles newspapers and "Pearson's," and "Collier's" and your publications?

A. Yes, sir.

Q. How long has he been your agent?

A. He was there when I got there.

Q. A long while?

A. Yes, sir.

Q. He is the big wholesaler there?

A. Helm is the big wholesaler.

Q. Of what?

A. Of magazines and newspapers—both.

Q. Helm handles "Munsey's" and the Butterick publications——

A. He may handle more.

Q. Is not your report right?

A. Yes, sir.

MR. MILBURN: Mr. Daly, that report does not purport to cover all of them.

THE WITNESS: I did not put down the "Menace" and all that stuff.

By MR. DALY:

Q. How did you find out he handled the Butterick publications?

A. Is that down there?

Q. Yes.

A. That he handles Butterick?

Q. Yes.

A. Then I was told by Mr.——

Q. You did not get any information at all from Helm?

A. No; because this agent of ours buys magazines from him, and if he buys Butterick publications from him, he knows consequently that he wholesales.

Q. Do you know whether Fisher ever applied to handle "Pictorial Review"?

A. No; I do not.

Q. Or "Every Week"?

A. I do not know.

Q. Did you cut off anybody in this territory because they handled "Every Week"?

A. No; not anybody.

Q. Is Charles Guttridge a new man or an old man?

A. One of the oldest we have. He testified here yesterday.

Q. Was he one of the men who was put in business by the Curtis Publishing Company?

A. He testified yesterday and you have his evidence.

Q. He testified yesterday?

A. Yes, sir.

Q. You went to Beaver Falls?

A. Yes, sir.

Q. Is your man Little there a new man?

A. Yes, he is a boy.

Q. When was he appointed?

A. By mail, from the home office. His predecessor went to the army, and they appointed a successor, and they did it from the home office.

Q. At Youngstown, Ohio, your agent is Kate Sheridan?

A. Yes.

Q. She handles——

A. Some evening papers.

Q. And she is your agent?

A. Yes, sir.

Q. Is the Youngstown News Company a branch of the American News Company?

A. Not the Youngstown News Company—the Youngstown News Agency.

Q. It is the Youngstown News Company on your paper.

A. The Youngstown News Company is an independent and a different organization.

Q. The Youngstown News Company branch of the Cleveland News Company of the American News Company——

A. Then it may be vice versa. It may be the Youngstown News Agency may be the one that was our agent. One is the Youngstown News Company and the other is the Youngstown News Agency.

Q. The Agency handles, according to your report, certain newspapers?

A. Then that is not the branch of the American News Company.

Q. The Youngstown News Company, which is the American News Company——

A. That must be the American News.

Q. They handle all?

A. Yes, sir.

Q. Is the Federal News Company a new company?

A. Yes, sir; a man named Norris runs it.

Q. He handles "Literary Digest" and "Pictorial Review"?

A. Yes, sir.

Q. Did Sheridan ever handle "Pictorial Review," if you know?

A. No; she sells them retail.

Q. Before the Federal News Company was established, Kate Sheridan was the only wholesaler there?

A. No.

Q. I mean except the American News Company.

A. I do not get that.

Q. You say the Federal News Company is not an old concern?

A. No, sir; it has been in business about two years.

Q. Now, Kate Sheridan is an old dealer?

A. No; she never wholesaled anything but newspapers.

Q. She has been in business a long time?

A. Yes, sir.

Q. She was there more than two years?

A. Yes, sir; eight or nine years.

Q. When you made her the agent, she was the leading wholesaler there, was she not?

A. She does not wholesale anything.

Q. She wholesales newspapers?

A. Yes, sir; the Youngstown News Agency, if you are talking about newspapers, was the biggest agency there.

Q. Now, you have testified about the time the Federal News Company was put in business—do you know when that was?

A. No.

Q. It has been about two years, do you think?

A. I imagine it has been about two years. That has been the time I have been going there and it was there when I got there. Of course, this Federal News Company——

Q. The Youngstown News Company were your agents?

A. Yes, sir.

Q. Until when?

A. I changed that agency about—I think two or three months ago.

Q. And you changed over to Kate Sheridan?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Do you know whether the "Pictorial Review" tried to get the Youngstown News Agency?

A. Yes, sir.

Q. Did they do it?

A. No, sir.

Q. Why?

A. For fifty-seven reasons.

Q. Name them.

A. One is enough.

Q. No; name the whole fifty-seven.

A. Have we got time?

Q. Go on.

A. I would not take Norris as an agent under any circumstances, and that covers the other fifty-six.

Q. We will let that stand that way, if you want to. Did the Curtis Publishing Company try to get Norris to handle their publications?

A. No, sir; not in Youngstown.

Q. Anywhere else?

A. Not that I know of.

Q. At East Liverpool, Ohio, who is your agent?

A. Heine Davis.

Q. How long has he been there?

A. He was there when I got there.

Q. That has been over three years ago?

A. Yes, sir; longer than that—five or six years.

Q. You got your information there from your own agent—you did not see anyone else?

A. Yes, sir; I saw the man next door, whatever his name is.

Q. You say in your report it was furnished by your agent?

A. Yes; that information was furnished mostly by our agent.

Q. You say there is no other wholesaler there except the East Liverpool Distributing Company?

A. Yes; I could not think of their name.

Q. What is their business?

A. They are a kind of bunch that buy together and distribute among each other, to save the express charges from Pittsburgh.

Q. That is not an agency at all, is it?

A. No; it is really not an agency.

Q. Now, in Ashtabula, your agent is Fred W. Dugro?

A. Yes, he is a boy.

Q. Who was agent there before?

A. Kahne.

Q. Why did you change?

A. Because he sold "Pictorial Review"?

Q. He was the only wholesaler there at that time?

A. Of magazines?

Q. Yes.

A. No; not when I changed that. He was there a long time. He was, for a long time, the only wholesaler. He was the only wholesaler of magazines, but next door, there is a firm by the name of McCloy.

Q. Now, in Erie, Pennsylvania, your agent there is the Erie News Company?

A. Yes, sir.

Q. And that handles the Buffalo papers?

A. Yes, sir.

Q. And other papers?

A. Yes, sir; and Philadelphia papers.

Q. Your magazine, and the "Literary Digest"——

A. Yes, sir.

Q. How long have they been your agent?

A. They succeeded a man by the name of Plate. Mr. Plate was the Union News Company before that, and they had it for years.

Q. Now, the Stranahan News Agency is a recent organization?

A. They must have been there three years.

Q. Were they handling magazines then, if you know?

A. Let me see——

Q. Your report shows that Stranahan handles only the "Pictorial Review"?

A. They have not handled it very long.

Q. As a matter of fact, they were put in the magazine business by the "Pictorial Review," were they not?

A. They may have been put in the magazine business, yes.

Q. They only handle the "Pictorial Review"?

A. No; they must handle some other stuff.

Q. Who is Francis Grace, there?

A. Who?

Q. Francis Grace.

A. I think he handles the "Every Week."

Q. Your report shows he handles the Crowell publications?

A. Yes, sir; that is it.

Q. How long has he been there?

A. Very recently.

Q. He is a new man?

A. Yes, sir.

Q. Just what investigation did you make about this?

A. I saw Mr. Huey and the dealers——

Q. What dealers did you see?

A. I cannot think of the names.

Q. How many dealers are in that town?

A. There are a hundred dealers.

Q. How many did you see?

A. I saw twenty.

Q. Can you name anybody you saw?

A. I saw at least twenty.

Q. Name some of them that you saw?

A. I cannot think of their names. One is a cigar store, I know.

Q. Did the Erie News Company try to handle "Pictorial Review"?

A. Not that I know of.

Q. Did they handle it?

A. Not that I know of.

Q. Before the Stranahan News Company took on the "Pictorial Review" and Grace took on the Crowell publications, the Erie News Company was the only organization there that handled magazines, was it not?

A. Yes, sir; outside of the Buffalo News Company.

Q. The Buffalo News Company is a branch of the American News Company?

A. Yes, sir; they have been there a long time.

Q. At Wilkinsburg, Pennsylvania, the Keyser Brothers handle the "Pictorial Review"—

A. Yes, sir.

Q. And your publications are handled by McIntyre & Grimm?

A. Yes, sir.

Q. How long have McIntyre & Grimm been handling your papers?

A. They have been handling them a long time.

Q. There was no other wholesaler there at the time they became your wholesaler?

A. Yes, sir; there was one near the depot.

Q. Is that the Keyser Brothers?

A. No, sir; I cannot think of the name.

Q. Is his name Fritz?

A. That does sound like it.

Q. You made this investigation——

A. I could not tell you, but there was a man there.

Q. Your report does not show anybody else?

A. He was not there when that report was made.

Q. He has come in since?

A. He must have. I said when McIntyre & Grimm took our agency there was another man handling magazines.

Q. Who handles the "Pictorial Review"?

A. I do not know. I have heard, but I do not know his name.

Q. You did not make much of an investigation in that town, did you?

A. No, sir; it was not necessary.

Q. Now, in Warren, Ohio, J. W. Cooke, Jr., is your agent?

A. Yes, sir; he handles Hearst's also.

Q. And he handles certain newspapers?

A. Yes, sir.

Q. The Cleveland and Youngstown newspapers?

A. Yes, sir.

Q. There was no other wholesaler there of newspapers?

A. No, sir.

Q. Do you know whether the "Pictorial Review" tried to get him?

A. He never said they did. I know McClure was put in there by the "Pictorial Review."

Q. He was put in there recently?

A. Yes, sir.

Q. Cooke was the only wholesaler there before Mr. McClure was put in there?

A. Yes, sir.

Q. And he was your agent?

A. Yes, sir.

Q. Now, in Pittsburgh, H. H. Shaeffer is your man?

A. Yes, sir.

Q. He handles a number of newspapers, your magazines, the Hearst magazines, the Munsey magazines, and "Collier's"?

A. Yes, sir.

Q. Do you know whether the "Pictorial Review" tried to get him to handle their magazines?

A. Not personally, I do not.

Q. What do you mean by that?

A. I never heard Mr. Shaeffer say they ever did.

Q. And the Keystone News Company now handles the "Pictorial Review"?

A. Yes, sir.

Q. Do you know what that is?

A. I know Mr. Martin runs it.

Q. What else do they handle?

A. They were handling the Warner group, but I do not think they are now.

Q. Your report shows they handle the "Pictorial Review"?

A. Yes, sir.

Q. Shaeffer was the only wholesaler there?

A. Yes, sir; outside of the Pittsburgh News Company.

Q. That is the American News Company?

A. Yes, sir.

Q. Did Shaeffer ever handle the "Pictorial Review"?

A. Not that I have found out.

Q. What investigation did you make there?

A. I did a little gum-shoe work.

Q. What kind of work is that?

A. I interviewed dealers.

Q. How many dealers did you see?

A. About fifty, I guess.

Q. Name them?

A. I tried to find out if Shaeffer had wholesaled any "Pictorial Reviews," but I could not catch him.

Q. He is pretty careful?

A. He has an eel skinned a mile.

Q. Did you investigate the Duquesne News Company?

A. Yes, sir.

Q. You have not got it down there.

A. That was defunct then.

Q. What was that thing?

A. Oh, a fellow by the name of Saul—I do not know just the name; they did not last over sixty days. Shaeffer was mixed up in it, but finally he was through and that was the end of it. I think they peddle "Pictorial Review" around. They may have handled some other little junk that I do not know about.

Q. In how many of these forty-six towns did you say there was only the Curtis agent?

A. What did I testify to before?

Q. Thirty-nine, you said.

A. Yes; thirty-nine.

Q. And forty-one began with the Curtis publications?

A. Yes, sir.

Q. Now, will you tell me how you found that out?

A. Well, that was found out from the pink and white slips.

Q. What did you do to find out that a man began by handling Curtis publications?

A. We had a census data sheet, which was compiled and kept in the office.

Q. You did not get this yourself, at all?

A. Yes, sir; from the towns in my territory.

Q. How did you do it?

A. By going in the town and seeing the men.

Q. When you say that thirty-nine of them were only Curtis men, what did you mean?

A. I meant that thirty-nine of them are only wholesaling the Curtis magazines.

Q. Would any of the thirty-nine be handling newspapers as well?

A. They might.

Q. How many were handling newspapers as well?

A. I could not tell you offhand.

Q. Have you the data there?

A. I do not think it applies to that data.

Q. Now, speaking again of those thirty-nine, I understood you to mean by that that they never handled any other magazines except yours.

A. Never at any time?

Q. I mean at the time you made your investigation and report.

A. At the time of my investigation?

Q. There only seem to be twenty-seven at that time in your report.

A. Have you got the forty-six reports?

Q. Twenty-seven of them are your wholesalers alone.

A. Well, I say, have you the forty-six pink and white slips?

Q. Yes.

A. How many have you got there?

Q. There seem to be twenty-seven.

A. What do you say those twenty-seven are?

Q. They are exclusively your men.

MR. SPIESS: The only wholesaler in those towns.

MR. MILBURN: Give him the forty-six reports and ask him to pick out the thirty-nine.

MR. DALY: Oh, that is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. In making your investigations throughout these different towns, did you interview both our agents and the various dealers around the towns?

A. I always interviewed our agent and always interviewed some dealers. Sometimes I would get all the information I wanted right away and did not go any further, but then again I had to interview some of the dealers.

MR. MILBURN: That is all.

W. D. BANKSTON was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Bankston, by whom are you employed?

A. By the Curtis Publishing Company.

Q. In what capacity?

A. Superintendent of Agencies.

Q. What district do you cover?

A. North and South Carolina and four towns in Virginia.

Q. How long have you been in that district?

A. Since February or March, 1915.

Q. And are you familiar with the towns covered within the district?

A. Yes, sir.

Q. Have you, during the past two or three months, made a special investigation and prepared reports for the Curtis Publishing Company, of the wholesalers?

A. Yes, sir.

Q. And those reports were made town by town?

A. Yes, sir.

Q. Upon what investigation were those reports based—what did you do in each town?

A. I found out the wholesalers of newspapers and magazines.

Q. How did you go about it?

A. By personal investigation both of the retailers and wholesalers.

Q. How many towns did you cover, all told?

A. Thirty-four.

Q. Of those thirty-four towns, how many have only one wholesaler?

A. May I look at my notes?

Q. Yes.

A. I think it is eleven—yes, eleven.

Q. And of all of your thirty-four district agents, how many of them began the magazine wholesaling business with the Curtis Publishing Company's publications?

A. At the time of my investigation, or at the present time?

Q. How many wholesaled Curtis magazines as their first magazine?

A. At the time of my investigation or at the present time?

Q. Yes.

A. Thirty-three.

Q. You draw a distinction between the present time and the time of your investigation. Does that mean certain changes may have taken place since that time?

A. Yes, sir; as I understand that question, the number of agents the Curtis Publishing Company started in the magazine business——

Q. Yes; how many is that?

A. Thirty-three at the time of the investigation.

Q. And of the thirty-four District Agents, how many now handle only the Curtis publications?

A. Twenty-seven.

Q. How many of these District Agents, if any, are boys?

A. About ten of them are boys.

Q. And from what walks of life are they generally drawn?

A. High School boys.

Q. But of the other adult agents——

A. News dealers; some are ladies; there are four lady agents.

Q. Any other branches represented among them?

A. Other than school boys, ladies and news dealers?

Q. Yes.

A. I have one District Agent who is Principal of a High School.

Q. Have you anything else—one is a minister, is he not?

A. No; he will be a minister in time. He is now in the seminary.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, of these twenty-seven that are only Curtis men, how many handle newspapers?

A. Handle newspapers?

Q. I want to know the towns where your agents handle other magazines as well as papers?

A. Handle other magazines and papers as well?

Q. Or magazines and your papers.

A. Columbia, South Carolina; Anderson, South

Carolina; Durham, North Carolina—I am speaking now of the time when I made the investigation.

Q. That is right.

A. Florence, South Carolina; Newport News, Virginia; Salisbury, North Carolina, and Charleston, South Carolina.

Q. You are familiar with the methods of getting magazines out to the people in these various cities, are you not?

A. Yes, sir.

Q. You made a personal investigation of those towns?

A. Yes, sir.

Q. Does the American News Company operate in these towns?

A. Any newsdealer can get copies from the American News Company in one of the towns they have a branch in.

Q. What is that?

A. Norfolk, Virginia.

Q. You did not give Norfolk, Virginia. I am including all the towns you mentioned to me.

A. No, sir; they have no branch in those towns.

Q. And the way those newspapers are delivered in those towns is what?

A. By mail.

Q. There are quite a number of large retailers in Columbia, are there not?

A. Yes, sir.

Q. Can you give the number?

A. About thirty.

Q. In Anderson there are how many?

A. About six.

Q. In Durham?

A. About twelve.

Q. And in Charleston?

A. About forty.

Q. And in Salisbury?

A. About ten.

Q. In Newport News?

A. About thirty-five.

Q. And in Florence?

A. Three.

Q. Now, in those same towns there are some wholesalers of magazines, are there not?

A. Yes, sir.

Q. For instance, in Charleston, Roessler is a wholesaler?

A. Of newspapers; yes, sir.

Q. Lightheart is a wholesaler of magazines, is he not—he handles the Warner group, "Literary Digest," "Collier's" and others?

A. He was; yes, sir.

Q. Is he a new man there or not?

A. No, sir.

Q. How does he get his magazines around to the retailers in that town?

A. He has them delivered in a cart and a colored man makes the deliveries.

Q. It is a personal delivery?

A. Yes, sir.

Q. Ledgerton & Company—they are your agents—how long have they been there?

A. Possibly thirty years.

Q. How long have they handled the "Pictorial Review"?

A. Why, to my knowledge I should say a year.

Q. Do they handle it now?

A. Yes, sir.

Q. They handled it at the time you made this report?

A. Yes.

Q. And they handle it still?

A. Yes, sir.

Q. Do you know why they are handling it now?

A. Because Mr. Ledgerton told me the reason he held on to the Pictorial Magazine Agency was because he was afraid if he gave it up he was afraid they would take the pattern agency away from him.

Q. He wanted to keep that?

A. Yes, sir.

Q. You permitted him to remain as your agent?

A. No, sir; next week is the last week they will handle our magazines.

Q. That is because of the contract they have with the Curtis Publishing Company?

A. Yes, sir.

Q. Why did you hold on to him so long?

A. With Mr. Ledgerton?

Q. Yes.

A. I could not get into the town until recently.

Q. You mean you could not go there?

A. For that special purpose of securing a new agent; yes.

Q. Have you made any effort to get a new agent in that town?

A. Not until last week.

Q. You got one, did you?

A. Yes, sir.

Q. How many times were you there this last year?

A. Charleston within the last year?

Q. Yes, sir.

A. Counting this last visit last week, perhaps four times.

Q. You made no effort to change the agency during that time?

A. Not until last week.

Q. When did you get your instructions to make this change?

A. I do not recall but it has been within the past month.

Q. Now, in Salisbury, your agent is Thomas S. Onner?

A. Yes, sir.

Q. He handles the Hearst magazines—do you know how long he has been handling the Hearst magazines?

A. Not very long.

Q. Does he handle anything else?

A. Newspapers.

Q. How long has he been handling newspapers?

A. Since he has had the Curtis agency—about two and one-half years.

Q. Did he handle newspapers first, or your magazines first?

A. I think he handled only newspapers before he handled the Curtis magazines.

Q. In Salisbury, who is the leading wholesaler of magazines there?

A. Mr. Sommers.

Q. He was the leading man there, was he not, all during the time he was your agent?

A. Yes, sir; there is no other wholesaler in that country.

Q. No other ones there?

A. No.

Q. The American News Company sends its magazines through that country?

A. Yes, sir.

Q. In the way you have testified to?

A. Yes, sir.

Q. Now, in Newport News, your man there is Cunningham—how long has he been your agent?

A. About a year.

Q. Who was the agent there before him?

A. J. L. Thomas.

Q. He went to Baltimore, did he not?

A. Yes, sir.

Q. And Cunningham took over that agency?

A. Yes, sir.

Q. He handles "Collier's"?

A. Yes, sir.

Q. Do you know how long he has been handling "Collier's"?

A. I think he took it over about the time he took over the Curtis agency; that agency was changed by the home office, by mail.

Q. Do you know whether Cunningham has been approached by the "Pictorial Review"?

A. Yes, sir.

Q. Who is Monfalcon? Who is he?

A. A wholesaler.

Q. When did he begin business there?

A. I really do not know. He was in business when I commenced making that territory.

Q. He is a magazine wholesaler?

A. Yes, sir.

Q. Do you know when he took on the "Pictorial Review" and "Literary Digest"?

A. No, sir.

Q. And the Munsey goods?

A. No, sir.

Q. You do not know whether he took them on at about the time of the independent movement on the part of the magazine publishers, do you?

A. Yes, sir; I think he did.

Q. Cunningham, prior to that time, was the leading wholesaler, was he not?

A. No, sir; he did not wholesale any magazines.

Q. Well, Thomas was?

A. No, sir.

Q. You say they handle Curtis and "Collier's"?

A. Is not another dealer listed there?

Q. I am speaking about the time prior to the independent movement, when the "Literary Digest," "Pictorial Review" and Munsey—do you know how long this man Monfalcon has been handling Munsey's magazines?

A. No, sir; but previous to that gentleman taking over the agency, there was another man there.

Q. Who is back of him?

A. He is in business——

Q. He handled the Hearst group, did he?

A. Yes, sir.

Q. Did I ask you how the News Company get their magazines out to these towns?

A. Delivery through the mails, to the best of my knowledge.

Q. Now, in Florence, South Carolina, Hubb is your acting district agent, is he not?

A. Yes, sir.

Q. He handles Hearst publications and the "Literary Digest"?

A. Yes, sir.

Q. Are they still your agents?

A. No, sir; it was transferred to a high school boy.

Q. Do you know why?

A. Because he made a better agent.

Q. Any difficulty about handling "Pictorial Review" or "Every Week"?

A. He did not handle "Every Week" or "Pictorial Review."

Q. Do you know whether he was ever asked to handle it or not?

A. I do not.

Q. In Durham, North Carolina, Dave & Levy are your agents?

A. Yes, sir.

Q. How long have they been such?

A. When I went into the territory in 1915 they were there.

Q. They handle a number of newspapers?

A. Yes, sir.

Q. In fact, they seem to be the only newspaper firm there?

A. Yes, sir.

Q. And they handle also 'Pictorial Review,'' the Hearst group, the Warner group, yours and others?

A. Yes, sir.

Q. Among those others, was the ''Pictorial Review'' one, do you know?

A. Yes.

Q. I mean the Crowell papers—are they handled by them?

A. Yes, sir.

Q. They handle all the magazines there?

A. Yes, sir.

Q. Are these people still your agents?

A. No, sir; I made a transfer to McPherson Beall, a high school boy.

Q. That was because they handled the ''Pictorial Review''?

A. Yes, sir.

Q. And they were the only wholesalers there?

A. Yes, sir.

Q. In Columbia, Nealy is your agent?

A. Yes, sir.

Q. He handles newspapers, and also handles the Hearst group and ''Collier's''?

A. Yes, sir.

Q. How long has he been your agent?

A. I do not recall the exact date.

Q. How many retailers are there in that city?

A. Perhaps thirty.

Q. You cannot recall the exact date—cannot you approximate the time he has been there?

A. Nealy?

Q. Yes.

A. I can give you the date. He commenced to wholesale our magazines on the 21st of September, 1917.

Q. Who are the Gayden Brothers?

A. Wholesale and retail dealers.

Q. Who was your agent before Nealy?

A. I had a boy agent there, Charley Cake. He was the agent before Nealy.

Q. What did he handle?

A. Charley Cake handled only the Curtis magazines.

Q. How long was he there?

A. He handled the agency for about eight or nine months.

Q. Who was the agent before that?

A. His brother, Henry Cake.

Q. How long did he handle it?

A. About a year and a half.

Q. And then you went over to Nealy?

A. Yes, sir.

Q. Who was the leading magazine dealer there?

A. No, sir; we started him in the magazine wholesale business.

Q. You started him?

A. Yes, sir.

Q. And he has the Hearst group and "Collier's"?

A. Yes, sir.

Q. Gayden Brothers have the "Literary Digest" and the "Pictorial Review" and "Collier's"?

A. Yes, sir.

Q. They are recently established?

A. No, sir; one of the oldest in town.

Q. I mean in the magazine business.

A. I think the first they handled was the "Pictorial."

Q. They did not handle this until this independent movement began, did they?

A. No, sir.

Q. Nor either the "Literary Digest"?

A. No, sir.

Q. Prior to that, Nealy was the leading man there?

A. Nealy did not take over our agency until after the Gayden Brothers had taken on "Pictorial."

Q. September, 1917, is when Nealy took over your magazine?

A. Yes, sir.

Q. Where have you made changes in this community recently—since this report?

A. I made changes—do you want me to list the towns?

Q. Yes.

A. For what period?

Q. Give the reasons for the changes as you go along.

A. What period?

Q. Since this report was made; these show the conditions at the time of the report.

A. What date was that?

Q. Well, give the changes in your territory since April, 1917.

A. Since April, 1917?

Q. Yes.

A. That report is not dated that date, is it?

Q. No, but I am going outside of the report. You have been in the territory since that time, have you not?

A. Yes; April, 1917. The first was in Raleigh, North Carolina. The agency was transferred there from one high school boy to another high school boy, because the first boy went to work for himself.

Q. Go ahead.

A. Asheville, North Carolina, was transferred from one dealer to a high school boy, because the dealer felt the wholesaling of magazines was interfering with his regular line of business. Do you want each one of the dates, too?

Q. No; just within that period.

A. In Raleigh, it was transferred from one boy to another boy because the previous boy did not make good on the job.

Q. These were wholesalers?

A. Wholesalers for the Curtis magazines. At Kingston, North Carolina, we transferred the agency from one boy to another, because the boy went with his father to the border. His father was an officer in the army. At Goldsboro, North Carolina, we transferred the agency from one boy to a dealer, because the boy did not make good on the job. At Hickory, North Carolina, we transferred from one high school boy to another high school boy, because the former agent did not make good. We transferred in Columbia, South Carolina, from a boy to a man. The boy was leaving school to go to work. We transferred the agency in Rock Hill from one dealer to another dealer, because the former dealer enlisted in the army. In Greenwood, North Carolina, we transferred from a dealer to a boy, because the former agent entered the war. In Sumter, South Carolina, we transferred the agency from one

dealer to another dealer, in order to improve our service. In Suffolk, Virginia, we transferred the agency from a boy to a dealer, to improve the sales. In Wilson, North Carolina, we transferred from a young man to a dealer, because the young man entered into the war. In Hickory, North Carolina, we transferred from a boy to a dealer, because the boy could not make good. In Nashville, North Carolina, we transferred from a boy to a dealer, because the boy could not handle the delivery—it was too big a problem for him. In Charlotte, North Carolina, we transferred from a dealer to a high school boy, because he was handling "Pictorial Review." In New Bern, North Carolina, we transferred from a dealer to a lady who had not previously wholesaled any magazines, because of the "Pictorial Review." In Goldsborough, we transferred from a dealer to a high school boy, because the dealer was not satisfactory. In Greenville, South Carolina, we changed from a dealer to the principal of a high school, because the dealer was not satisfactory. In Spartanburg, South Carolina, we transferred from one lady to another lady, because the former agent was ill and could not attend to the work. She gave it up voluntarily. In Hickory, North Carolina, we transferred from one dealer to another dealer, because the former dealer went out of business. In Raleigh, North Carolina, we transferred from a high school boy to a lady. The reason the agency was changed, was that the boy will finish school this June and will leave the town. In Greeneville, North Carolina, we transferred from a lady to a school boy, because the lady could not look after the business. In Florence, South Carolina, we transferred from an agent to a high school boy really because the former agent went off to war. You will notice that the present agent is marked "acting agent." He is acting for the agent who enlisted. In

Durham, North Carolina, we transferred from a dealer to a boy, because of the "Pictorial Review." In Charleston, South Carolina, we transferred from a dealer to a boy, because of the "Pictorial Review."

Q. In these cities you have testified about, it is highly important that these retailers are properly served?

A. Yes, sir.

Q. That is one of the main things these agents do?

A. No, sir.

Q. They distribute to the boys—these retailers?

A. They distribute to both boys and retailers, but their principal duty is to secure and coach the boys.

Q. I am speaking of the distribution end of it—that is a very important end, is it not?

A. Yes, sir.

Q. In your territory, can you tell me how many master salesmen there have been among your boys within the last year?

A. I think there was one. There may be another named this week. He should be. If there is not, there is not any master salesman.

Q. In that district that you represent, a large number of the people are colored?

A. Yes, sir.

Q. Do you take any steps to reach that particular portion of the population with magazines?

A. None particularly.

Q. Could not you serve these retailers just as well by mail without having an agent in these cities?

A. No, sir.

Q. Why not?

A. Because they are scattered so and are so far away from the post offices, they could not do it.

Q. That would be applicable to most of these cities, would it not?

A. Yes, sir.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. In the majority of your towns, has your agent any automobile or wagon delivery?

A. Not in the majority cases.

Q. They carry them around or send them around by boys?

A. Yes, sir.

E. M. LOVELAND, called as a witness on behalf of the respondents, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. With what company are you associated, Mr. Loveland?

A. The Curtis Publishing Company.

Q. In what capacity?

A. Manager of the Philadelphia branch.

Q. And have you charge or general supervision over the district agents of that branch?

A. I have.

Q. What territory does it cover?

A. Philadelphia, Camden and Darby.

Q. How many district agents have you in that territory?

A. I have thirty-eight district agents, and one wholesaler.

Q. How many of them handle only Curtis publications?

A. Thirty-seven.

Q. These district agents deliver through boys—all of them?

A. No.

Q. Do all of them—do you understand my question?

A. Do the district agents deliver to boys?

Q. Through boys?

A. The boys call at the house or stores.

Q. They distribute the magazines. They have a list of the boys, have they not?

A. Yes, sir.

Q. Have you aided them in getting these boys and working with the boys?

A. I have.

Q. That is part of your duties?

A. Yes.

Q. You have a League of Curtis salesmen, have you not?

A. Yes, sir.

Q. How many of these boys are members of that League?

A. Sixty-three.

Q. There are bonuses and prizes offered by the company to both the boys and agents, are there not?

A. There have been in the past.

Q. And some of these agents come to you and receive these bonuses and have won prizes?

A. A great deal of money has been won by the district agents and by boy sub-agents.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How many retailers are there in those three cities?

A. Between eight and nine hundred—about.

Q. You supervise them in a sense, do you not?

A. I do.

Q. Do you see them personally?

A. I see a great many of them personally in passing over my district.

Q. Do you see them frequently?

A. Quite frequently.

Q. Why do you do that? Why do you visit frequently?

A. To promote sales and get displays and to acquaint them with any offers that are running for dealers.

Q. Does that seem to be a necessity in your business, to attend to these men in that respect?

A. Yes, sir.

Q. The result of that is, of course, to increase the sales of your magazines, to keep in touch with them?

A. Yes, sir.

Q. And the more you do of that work, the better it is for your circulation—is not that correct?

A. Yes, sir.

Q. Now, besides your visits among these retailers or dealers, your other representatives would also see them, would they not?

A. Yes, sir.

Q. And they do the same work as you in that respect?

A. They do.

Q. Now, what other representatives keep in touch with the retailers in that territory?

A. I have none at present. At the time those reports were made, I had two.

Q. I am speaking of the time of your report.

A. I had Raymond W. Plant and C. W. Loveland.

Q. What was their business?

A. Calling on the agents and stores and holding meetings and calling on the educators.

Q. You have some wholesale dealers in that territory?

A. Yes, sir.

Q. Do they do that work also?

A. No, sir; they do not.

Q. They do not do it in your territory?

A. No, sir.

Q. And the way you keep in touch with the retailers in your district is by your visits, and by the visits of those special representatives you mention?

A. Yes, sir.

Q. What is the United News Company?

A. A company that distributes magazines, periodicals and papers to the dealers.

Q. They handle your magazines, do they not?

A. They do.

Q. What were these thirty-eight that you testified about?

A. Thirty-eight district agents for the Curtis Publishing Company.

Q. Are they not wholesale dealers?

A. They wholesale the Curtis publications—one wholesales the "New York Journal."

Q. You mean they do not keep in touch with the wholesalers?

A. You spoke of wholesalers, and I supposed you meant—that is the reason I said we had thirty-eight district agents and one wholesaler.

Q. The thirty-eight would keep in closer touch than you?

A. From the fact the boys call at their places of business each week.

Q. And when they go there they find out, of course,

what is going on in the business of that dealer, in the distribution of their magazines?

A. Yes, sir.

Q. That is a part of your business?

A. Yes, sir.

Q. And, of course, it is a very essential part in the distribution of your magazines?

A. Yes, sir.

Q. Now, how many of these boys handle newspapers?

A. None.

Q. And the boys you have told Mr. Milburn about are boys who handle nothing except your magazines?

A. Correct.

Q. Is there one of them handling other magazines besides Curtis?

A. No, sir.

Q. There are thirty-eight district agents and thirty-seven handle only Curtis publications?

A. Yes, sir.

Q. But the other handles what?

A. The "New York Evening Journal."

Q. And your publications?

A. Yes, sir.

Q. How many of these sub-agents handle newspapers?

A. Sub-agents?

Q. Yes—of your district agents, how many handle newspapers?

A. One.

Q. And that is the one you have testified about?

A. Right.

Q. Now, the United News Company handles "Pictorial," does it not?

A. I believe it does.

Q. Why do you hold on to that company—why don't you change it?

A. They are not under contract.

Q. They are not under contract with you?

A. No, sir; they have never been. They are distributors to stores. They handle no boys whatsoever.

Q. They are not the usual type of wholesale dealers we have been talking so much about in this case?

A. They are not district agents; they enjoy a wholesale privilege.

Q. Of your magazines?

A. Yes, sir.

Q. But they are not under contract?

A. No, sir.

Q. They are not related—in reality, you have no wholesale dealers except the particular kind you have described here?

A. That is all.

MR. DALY: That is all.

MR. MILBURN: That is all. That closes our testimony here.

EXAMINER MOORE: Very well; we will take an adjournment now until May 11th, 1918, at 10 o'clock A. M., at New Orleans, Louisiana.

(Whereupon, at 12:20 o'clock P. M., an adjournment was taken until Saturday, May 11th, 1918, at 10 o'clock A. M., at New Orleans, Louisiana, at the Federal Building.)

(Last Commission's Exhibit, No. 198.)

(Last Respondent's Exhibit, No. 26.)

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission,
v.
Curtis Publishing Company.
} Docket No. 15.

New Post Office Building, New Orleans, Louisiana.
Saturday, May 11, 1918, 10 o'clock A. M.

The above-entitled matter came on for further hearing pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: MESSRS. A. M. DALY and L. A. SPIESS, on behalf of the Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

OLIN B. LINN, called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Linn?

A. Beaumont, Texas.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. How long have you been that agent?

A. Since 1909.

Q. What is the population of Beaumont?

A. Thirty-five to forty-five thousand. I cannot give you any better figure than that, because of the new industries that have come there since the war.

Q. Who had the agency there before you had it?

A. Mr. Paul Wilhelm.

Q. Are there any other wholesalers in Beaumont?

A. Wholesalers of magazines?

Q. Yes.

A. Yes, sir.

Q. Who?

A. S. Zafir & Sons Company, D. J. Hicks Book Store, Incorporated, Rufus M. Nix and Beaumont Cigar Store.

Q. What do you handle?

A. We are agents for the Curtis publications, "Collier's," newspapers and different Texas dailies—all of them, and the "New Orleans Picayune."

Q. Those are the only two magazines you handle?

A. No, sir; we have the "Pictorial" and the "New York Times."

Q. What was your first magazine?

A. The Curtis publications.

Q. And did you handle them all alone?

A. Yes, sir; the company did that I am with. I took over this company four or five years ago.

Q. Before that your brother was handling it?

A. Yes, sir; Charles F. Linn.

Q. What magazines does Zafir, whose name you have given, handle?

A. I am sure he handles the "Cosmopolitan" and a number of others—not being interested I have never looked into it in any way.

Q. Who handles the Hearst magazines?

A. That is the "Cosmopolitan" group. That is J. Zafir & Sons.

Q. What does the Hicks Book Store handle?

A. They are agents for the "Literary Digest" and also agent for the "Pictorial Review," the "Woman's Home Compaion" and "McCall's Maga-

zine'' and a number of others. Hicks and the Beaumont Cigar Store and myself handle all the magazines in Beaumont, practically. Rufus Nix handles a few. We are the only wholesalers of magazines.

Q. Do you cover the retail dealers in Beaumont?

A. Yes, sir.

Q. Have you also a boy force?

A. Yes, sir.

Q. What do these boys handle?

A. We have two separate forces, practically. The news force handle the newspapers and then the Curtis boys that handle the Curtis publications.

Q. Do the Curtis boys handle anything else?

A. Only maybe one or two out of the whole list.

Q. What is that?

A. One or two sell ''Collier's Weekly''—I think it is one; I am not sure—I think he gets that through the mail and sells it. Somebody sends him a copy of it.

Q. Does he sell many of them?

A. Only two or three.

Q. How many boys have you?

A. It runs between forty-five and fifty-five. You might say fifty is the average. They will average fifty the year around.

Q. About on an average, how long do they stay with you?

A. Most of our boys stay with us until they get too old to sell any longer. They start anywhere from thirteen years to fifteen and sixteen—many of them start at fourteen and stay two or three years.

Q. Have they their own permanent customers?

A. They have their regular customers to supply. We only have two boys that sell on the open street.

Q. In getting and maintaining this staff of boys, has the Curtis Publishing Company co-operated with you?

A. Very much. Their district road men come through about every three months and through organization and different meetings we have—Ten Clubs and Curtis Army and the League of Curtis Salesmen, et cetera——

Q. Have you received any additional compensation in the way of bonuses or prizes?

A. Yes, sir; from time to time we have received bonuses for increases in a certain length of time and also prizes in contests.

Q. And the boys too, have won prizes?

A. Yes, sir; we receive prizes through them securing prizes. They have to secure the prizes before we can.

Q. You spoke of holding meetings. What is the purpose of these meetings?

A. Well, they are get together meetings, instructing the boys in different ways of increasing the output.

Q. Who does the talking?

A. The district road man generally makes a speech, and I have a little talk and once in a while we have boys talk. If a boy makes a good increase, we let him tell how he did it.

Q. Do you have any co-operation with the schools or Y. M. C. A.?

A. We have had; yes, sir; also the Boy Scouts and the Y. M. C. A. We had one Y. M. C. A. meeting. The schools are very successful, of course, until the vacation comes along, and then we have to do it all over again the next year

Q. These meetings to which you refer are for the Curtis boys, are they not?

A. Yes, sir; any boy is welcome to it and we always suggest that one Curtis boy always bring at least one boy with him.

Q. You have any such system of training or meetings for your newsboy staff?

A. Yes, sir; in a way. Our circulation managers come through—the circulation managers' convention—that is with the newspapers, once a year. When the circuses come through and so forth—but it is not regular training. There are no records kept.

Q. Did you ever handle "Every Week"?

A. Yes, sir; we were agents for "Every Week" for a short while; I do not remember how long.

Q. Did you give it up?

A. Yes, sir; we gave up the agency for it.

Q. Why did you give it up?

A. Why, it played out and there was irregular service. It played out more than anything else.

Q. Are you under the new contract?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How long have you been in business?

A. You mean in this particular business?

Q. Wholesaling magazines.

A. Wholesaling magazines—it has belonged to my family for the last sixteen years. Although I have held positions in other companies, I have been connected with it at all times.

Q. What is the next oldest magazine company in Beaumont?

A. We are not the oldest magazine company there. Zafir & Company are the oldest. They have had different agencies and have also held the agencies we have had.

Q. Did you ever handle "Pictorial Review"?

A. No, sir.

Q. Were you ever asked to handle it?

A. I could not say.

Q. How long have you been there personally in this business?

A. Six or seven years, practically in charge of it, you might say.

Q. You would know, then, if your concern had been asked?

A. I think so; yes, sir.

Q. Who is handling "Pictorial"?

A. To the best of my knowledge, Hicks Book Store. It is either Hicks or Zafir.

Q. They are large wholesalers?

A. Yes, sir.

Q. They are very efficient, are they not?

A. Yes, sir; I think so.

Q. How long did you handle "Every Week"?

A. As I said before, I could not say. I did not look it up.

Q. Six months?

A. It might be that long.

Q. Recently?

A. Well, the last three or four years.

Q. Did you have it in 1917?

A. I could not say.

Q. Do you know when they went independent?

A. No; I did not know. It might be that is the reason we gave up the agency, but, as I said before, it had practically played out. They gave it away with the local paper.

Q. Was anything said by you to the Curtis representative about handling "Every Week"?

A. Not that I know of. I do not think I had it up with them.

Q. Where did you get the "Every Week" magazines that you handle?

A. Out of New York, I believe.

Q. It was shipped to you direct by the Crowell Publishing Company?

A. I believe so; the bookkeeper could tell you, though.

Q. How many master salesmen have you had in the last two years?

A. I do not believe we have had one. We might have had one; I am not sure. We had an awfully good boy there. He made a good record.

Q. Do you know that the requisites of a master salesman are that he must be with you one year continuously?

A. Yes, sir; I believe it is.

Q. And he must have sold so many copies?

A. Yes, sir.

Q. Do you know whether or not it is because they have not sold the requisite number of copies or they have not been with you long enough?

A. The number of copies has held it up.

Q. Does the American News Company have a branch in your town?

A. I do not think so. I think they all buy from the New Orleans Company.

Q. How do the magazine dealers get their magazines from the publishers?

A. I do not know. Zafir and Hicks buy on open account.

Q. How are they shipped in?

A. By mail or express.

Q. Do you reach all the retailers in your town?

A. Yes, sir.

Q. How many are there?

A. We have twelve or fourteen of our own dealers. Of course, there are many other dealers than that there.

Q. You do not reach them all?

A. We are prepared to reach them all, but they are not ready to take them.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are some of your boys League members?

A. Yes, sir.

Q. How many of them?

A. I think we have three now and one some time ago.

By MR. SPIESS:

Q. How long does a boy have to be with you before he is a League member?

A. Something like six months.

Q. Does he have to sell a certain number of copies before he is a League member?

A. Yes, sir; well, it is a part of his training.

E. L. SCOTT, was called as a witness on behalf of the Respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Little Rock, Arkansas.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. Little Rock, Arkansas, is your town?

A. Yes, sir.

Q. How big is Little Rock?

A. Well, the population of Little Rock—the last census gave it 61,000. It is larger now. 1910 was the last census.

Q. You wholesale the Curtis magazines?

A. Yes, sir.

Q. How long have you been agent?

A. Eight years.

Q. Do you wholesale any other magazines?

A. "Collier's."

Q. How long have you had "Collier's"?

A. I do not remember just how long—not as long as I have had the Curtis—about four years I should say, for the "Collier's."

Q. When you started, you wholesaled only the Curtis?

A. Yes, sir.

Q. What other business are you in?

A. What other business am I in now?

Q. Yes.

A. I sell McCray Refrigerators and Standard Scales—that is for another party. That is a kind of a side line.

Q. Do you wholesale any newspapers?

A. No, sir; I did at one time, but not now.

Q. How long ago was that?

A. Three years ago.

Q. For how long?

A. I guess seven or eight years. I was wholesaling newspapers when I was taken on the Curtis agency.

Q. Do you cover the dealers in your town—do you deliver the Curtis papers to them?

A. Yes, sir.

Q. How?

A. With an auto.

Q. Have you also a staff of boys that distributes the papers?

A. At this time I have between seventy-five and eighty boys who are selling.

Q. Are they school boys?

A. Yes, sir.

Q. How did you get them?

A. Well, by the advertisements of the Curtis Publishing Company—the advertising the Curtis Publishing Company did for me and by getting the other boys to get their friends to come in and by talking to them, and if I saw a boy on the street or knew of some boy

that you would like to have that would make a good Curtis boy, by going to his home and seeing his mother and talking to them and getting them interested in that way.

Q. You have gotten into communication with the parents of some of them?

A. Yes, sir; I have called on their mothers quite often.

Q. Have you had any meetings with them in order to instruct them or aid them?

A. I try to have one meeting a month, a meeting at the Y. M. C. A., through the courtesy of the Y. M. C. A.

Q. Is your staff of boys a fairly permanent one?

A. Yes, sir; we have some boys who have been selling for quite a long time—it seems to me quite as long as I have had the agency. Of course they outgrow it after they get through high school; you can hardly expect a boy to keep on. The boys get something that makes more money and quit.

Q. Are there any other wholesalers of magazines in Little Rock?

A. Yes, sir.

Q. Who are they?

A. A party named R. North.

Q. What does he wholesale?

A. Hearst publications and quite a number of magazines. I do not remember the names of all of the magazines he does handle.

Q. How long has he been established?

A. Really, I do not know. It has been since Hearst went independent—since they went independent with the other magazines. I do not know how long that has been.

Q. Was he in business before that?

A. No, sir; only just selling newspapers and a few magazines that he got through the St. Louis News Company and me.

Q. Is there anyone else?

A. A fellow named—I do not remember his initials—but Wiley. They call him McWiley. It is not McWiley. It is Wiley. W. Wiley, I believe is his name,

Q. What does he handle?

A. He has a newsstand and has a wholesale business. He has had that two or three weeks. It may be longer than that, but since he took on the Crowell publications, "Every Week," the "American"—I do not remember just what he has—but he wholesales.

Q. Are you under the new contract?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What do you wholesale besides Curtis publications?

A. "Collier's."

Q. You say Mr. North wholesales the Hearst publications and other magazines?

A. He has—I do not know the names of all the magazines that he does handle. He has the Hearst line, though, whatever number of magazines that is.

Q. Do you know where Mr. North gets his magazines from?

A. Direct from the home office. I am under the impression of that. I do not know that to be a fact.

Q. You do not know, though, do you?

A. Of course, I have no way of absolutely knowing he does. He is a wholesale agent there and naturally would get them direct from the home offices, I suppose, the same as I do from the Curtis Company.

Q. Do you know whether or not all the magazines he handles are shipped direct from the home office or the American News Company?

A. I think they are—all the magazines that he han-

dles are shipped directly from the publisher to him, that he handles; yes.

Q. Does he handle "Every Week"?

A. Mr. McWiley I am under the impression handles that.

Q. Does Mr. North handle "Pictorial Review"?

A. Yes, sir.

Q. Does he handle the "Literary Digest"?

A. Yes, sir.

Q. Does he handle the Munsey group?

A. Does not that Munsey group come with "Every Week" and the "American Magazine"?

Q. They are entirely different publications.

A. They are entirely different?

Q. Yes.

A. He must have the "Munsey"—that is "Snappy Stories" and that line, is it not?

Q. I do not know exactly.

A. I do not know either. I am sure he handles that, though.

Q. How long has Mr. Wiley been wholesaling these magazines—do you know?

A. Since they went independent. Just offhand I would say six weeks or two months. He told me about it before he got them. He said he was going to take it—he did not know whether it would pay him. I had a conversation with him before he began to handle them. I know he was figuring on handling it and that was when he had the talk with me.

Q. Before Mr. Wiley started wholesaling magazines you and Mr. North were the only wholesalers there?

A. Yes, sir.

Q. Did you ever handle "Pictorial Review"?

A. No, sir.

Q. Did you ever try to handle it?

A. No, sir.

Q. Are you sure of that?

A. Sure that I ever tried to handle it?

Q. Yes.

A. No; I never tried to handle it.

Q. Did they ever ask you to handle it?

A. I do not remember. I had some kind of a letter from them—something about it. I think probably at the time they were going independent probably I had some kind of correspondence with them about it, but I do not remember just what it was at this time.

Q. You remember receiving a letter from them about it?

A. I really do not know whether it was a letter or——

Q. Do you remember ever writing them a letter asking them for that agency?

A. I expect I wrote them something about it. That is generally my way—I like to get all the publications I can get to handle. That is generally my way.

Q. I show you this letter and ask you if you sent that (exhibiting letter)?

A. Yes; I wrote this.

Q. I show you a carbon copy and ask you if that is the carbon copy of the reply you received?

A. I received that, too.

Q. Did you reply to that carbon copy by that letter (handing another paper to witness)?

A. Yes, sir.

Q. Then, you wish to correct your statement that you never solicited this "Pictorial" agency?

A. I wrote that in regard to that.

Q. You testified at first that you never did.

A. That I never asked for it?

Q. Yes.

A. I did not intend to say that.

MR. MILBURN: I do not think he said that.

MR. SPIESS: I asked if he ever took on the "Pictorial Review," and he said no.

THE WITNESS: I thought you said did I ever take it on.

MR. SPIESS: Then you misunderstood me.

A. No; I never took it on.

MR. SPIESS: I offer these in evidence.

MR. WELCH: There is no objection.

MR. MILBURN: No objection.

(The letters referred to were thereupon received in evidence and marked by the Stenographer, "Commission's Exhibits Nos. 199a, 199b and 199c," respectively, and the same are as follows:)

COMMISSION'S EXHIBITS NOS. 199A, 199B AND 199C.

"414 W. 2d St., Little Rock, Ark.
February 16, 1917.

Pictorial Review,
New York.

Gentlemen—

I learned today that you are contemplating placing your magazine with individual dealers in each city in the near future.

I am in the wholesale magazine business, and if you have not already selected someone in Little Rock, I should like to hear from you in regard to your magazine.

Very truly yours,

ELS/H E. L. SCOTT."

"February 21, 1917.

Mr. E. L. Scott,
414 W. 2d St.,
Little Rock, Ark.

Dear Sir:

I have your letter of the 16th. I'd appreciate your writing me at once and letting me know the

magazines you are now wholesaling and full particulars regarding same. We are looking for a good live wholesaler who could get increased business.

Yours very truly,
Circulation Director.

M-M"

"414 W. 2d St., Little Rock, Ark.,
February 28, 1917.

The Pictorial Review Co.,
216-226 W. 39th St.,
New York, N. Y.
Circulation Director.

Gentlemen—

Yours of February 21st received. I am at the present time handling 2,000 SATURDAY EVENING POSTS, 600 COUNTRY GENTLEMEN, 1,400 LADIES HOME JOURNALS, and 250 COLLIERS.

If in the future you should decide to give your agency to an individual dealer, I am sure that I could do as much for you as anyone else in the city.

Thanking you in advance for anything you may have to offer me, I am,

Very truly yours,
E. L. SCOTT.

ELS/H."

By MR. SPIESS:

Q. Were you ever approached to handle "Every Week"?

A. I do not just remember. It seems to me I remember some conversation with some roadman in regard to it, that they were going to go independent or something like that, but they never asked me to take the contract.

Q. Did you ever make an effort to handle it?

A. I remember writing a letter similar to that in regard to it.

Q. Do you know why you did not get the agency in regard to "Pictorial Review"?

A. Mr. North had it before I really knew they had placed it with anybody. He was handling it. Of course naturally——

Q. Mr. North was handling the "Pictorial Review" by wholesale before you wrote this letter?

A. I really do not know that.

Q. Under the new contract, has your bond been increased?

A. Has my bond been increased under the new contract?

Q. Yes.

A. Yes, sir.

Q. Has that increase been made to cover approximately what was your advance in remittances?

A. Approximately so; yes, sir.

Q. How many boys have you?

A. Between seventy-five and eighty—somewhere along that number. Of course it varies. Sometimes we have more and sometimes a few less, you know.

Q. How many boys did you have when you sold newspapers?

A. About the same.

Q. About the same?

A. Yes, sir; you mean about how many boys did I have—Curtis boys or all the boys?

Q. Altogether.

A. Of course, I had more boys selling newspapers, because the newspapers—foreign papers—we sell those on Sundays. Of course, the newspapers were sold on Sundays mostly by colored boys. The Curtis boys never sold any newspapers. The daily sales did not

amount to anything. We sold them right off the news-stand and did not attempt to handle any boys.

Q. Any of your boys handle "Collier's"?

A. Well, I think probably out of the bunch there may be about four or five who handle one or two—something like that, you know. They probably would take it home to their father or uncle. They did not make any effort to sell them.

Q. Take these boys, for instance, that handle a few "Collier's"—these so-called Curtis boys—what do you charge them for the magazines?

A. For the "Collier's"?

Q. No; for "The Saturday Evening Post"?

A. What I charge a "Post" boy for his "Posts"?

Q. Yes.

A. Three cents apiece.

Q. You charge them all three cents?

A. Yes, sir.

Q. What do you charge the retailer?

A. Three and a half.

Q. How does the American News Company distribute in your town?

A. They send them from St. Louis.

Q. Do they distribute by mail or express?

A. Really, I do not know how the agents get them. I think they get them through the mails though. Of course they get part of their stuff by express; part by express and part by mail.

Q. How many retailers are there?

A. Why, about thirty-five stands.

Q. Do you reach them all?

A. Yes, sir.

Q. Do you know whether or not the American News Company agency reaches them all?

A. I do not know—approximately all of them, I should say, though. They have a pretty good line of magazines.

Mr. Spiess: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. The American News Company can reach any dealer who communicates with them, can they not?

A. That is my understanding.

MR. MILBURN: That is all.

JAMES T. BALLARD, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Beeville, Texas.

Q. Do you handle the Curtis publications?

A. Yes, sir.

Q. What is your other business there?

A. Drug business.

Q. How long have you been the agent for the Curtis Publishing Company?

A. Three and a half years.

Q. Do you handle any other magazines?

A. Yes, sir.

Q. What magazines?

A. Hearst publications and "Literary Digest."

Q. How long have you handled them?

A. About two years.

Q. Did you begin your magazine wholesale business with the Curtis Publishing Company?

A. Yes, sir; I did.

Q. Do you deliver to the dealers in Beeville?

A. Yes, sir.

Q. Have you any boys?

A. Yes, sir; eight boys.

Q. How long have you had them, approximately?

A. Some of them one month and some of them two years.

Q. What are they?

A. They are the delivery boys—Curtis boys.

Q. Are they school boys?

A. Yes, sir; they are school boys.

Q. How do you get them?

A. I get them by coming in contact with the boy and by visiting their parents and calling on them over the 'phone.

Q. Do the Curtis people co-operate with you in getting them by advertisements, et cetera?

A. Yes, sir; advertisements in the local papers.

Q. Do you know anything about the boys getting positions who work with you?

A. Yes, sir; I know quite a few. I know one Curtis boy in my store that has charge of my soda fountain. I have a soda fountain in connection with my store. He was a good salesman and sold papers well and I took him in my store and he has made me a good clerk.

Q. You are the only wholesaler of magazines there?

A. Yes, sir; there is another newsstand, but I do not think they wholesale magazines. They wholesale papers.

Q. How many newspaper wholesalers are there?

A. Two.

Q. Have you received any bonuses or extra compensation?

A. No, sir.

Q. You have not received any?

A. No, sir.

Q. None of your boys have gotten any prizes?

A. Some of the boys have gotten small checks.

Q. For getting new boys, you must have received certain sums?

A. Yes, sir; but I do not remember to have received any, nor the amounts.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. All the boys, as a rule, go to school in your town, don't they?

A. Yes, sir; we have a compulsory school law there.

Q. You could not get any boys who were not school boys?

A. No, sir; I would not want them.

Q. You could not get them very well?

A. No, sir; unless they were boys over the school age, which, I think, is sixteen in our State.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Not that I remember.

Q. Who distributes the "Pictorial Review" in your town?

A. I was in the other newsstand, and I think the other newsstand does, but I do not know.

Q. Where do you get your "Pictorial"?

A. From the Texas News Company, at Dallas.

Q. That is a branch of the American News Company?

A. I do not know.

Q. It is shipped in by mail?

A. By express.

Q. Who pays the express charges?

A. I do.

Q. Who pays the express charges on your Curtis publications?

A. They do.

Q. What is the size of your town?

A. Five thousand. We claim more, but the census does not give us more.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. Just one more question. You can answer standing there. You said that you distributed the "Pictorial." You mean, then, in a retail way, do you not?

A. Yes, sir.

MR. MILBURN: That is all.

JAMES H. NELSON, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you the Curtis agent in Mobile?

A. Yes, sir.

Q. How long have you been agent there?

A. Over ten years.

Q. What do you handle—what other magazines do you handle, if any?

A. I handle most anything that is published.

Q. Wholesale, I mean.

A. None at all.

Q. The Curtis magazines are the only ones you wholesale?

A. Yes, sir.

Q. You also maintain a retail store?

A. Yes, sir.

Q. And retail other magazines and papers?

A. Yes, sir.

Q. Do you serve the dealers in Mobile with the Curtis publications?

A. Yes, sir.

Q. And how do you distribute them?

A. I have a colored boy with a wagon for that purpose.

Q. Have you also a staff of boys?

A. Yes, sir.

Q. How many?

A. Thirty-two.

Q. What do they distribute?

A. They only sell the Curtis Publishing Company's publications that I know of.

Q. Are these school boys?

A. Yes, sir.

Q. Where do they distribute their magazines?

A. In the residential districts and office buildings

Q. They have their customers, have they?

A. Regular customers; yes, sir.

Q. Is this staff of boys a fairly permanent one?

A. Yes, sir.

Q. Is there any other wholesaler of magazines in your city?

A. Yes, sir; two.

Q. Who are they?

A. Mr. W. Nichol.

Q. What does he handle?

A. The Hearst publications and the Warner publications and Crowell publications and "Pictorial." I do not know who publishes these, but I know what he supplies me with.

Q. He handles quite a supply of magazines?

A. Yes, sir.

Q. Is he the main wholesaler there?

A. Yes, sir.

Q. Who else is there?

A. Mr. J. Cohen.

Q. What does he wholesale?

A. "Collier's."

2365

Q. Were you asked to handle the Crowell publications?

A. Yes, sir.

Q. And at the time you were asked, were these two other wholesalers in business at Mobile?

A. Yes, sir.

Q. You did not take it on, did you?

A. No, sir.

Q. You are under the new contract, are you not?

A. Yes, sir.

Q. What is the population of Mobile?

A. Well, according to the census—the latest book they have gotten out—it is 66,000.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What other business are you in besides wholesaling and retailing magazines?

A. I am in the gents' furnishing business and restaurant business.

Q. Why did you decline to handle the Crowell publications?

A. Because I could not see nothing in it for me. It was not enough to start with, and besides I found out it paid me better to handle the Curtis publications. I could make more out of it than all the balance combined. It was a matter of business with me.

Q. Would that make any difference, if you handle the Crowell publications, to the Curtis people?

A. Yes, sir.

Q. What difference would it make?

A. I would not attempt to handle them at all without permission of the Curtis Publishing Company.

Q. Did you attempt to get permission?

A. No, sir.

Q. Your contract with the Curtis Company stopped you, or you did not want to handle it?

A. No, sir; it did not stop me, but the contract was I would not take up any other magazine unless it was agreeable to the Curtis Publishing Company—no specific or particular magazine.

Q. As a matter of fact, you did not want to get into the wholesale business of handling magazines—is that it?

A. Unless there was enough in it to justify the time and trouble.

Q. You did not consider there was enough in it to handle another magazine?

A. That is the reason I did not take it. If there had been enough, I would have taken it up with the Curtis Publishing Company.

Q. How many boys have you?

A. Thirty-two.

Q. Do they handle anything outside of the Curtis publications?

A. Not that I know of.

Q. How many master salesmen have you?

A. I have one and I have one on the waiting list.

Q. How long have you had a master salesman?

A. How long has he been selling for me?

Q. How long have you had a master salesman?

A. About a year—not quite that long.

Q. Has your bond been increased under the new contract?

A. Yes, sir.

Q. That was increased to cover your advanced remittances under the old contract?

A. How do you mean, sir?

Q. Under the old contract, you remitted in advance for your publications, did you not?

A. Well, I always keep a deposit in the hands of the Curtis Publishing Company. They always owed me. I never owed them nothing.

Q. Is that the same arrangement you have now?

A. There is no arrangement about it at all. I would send them all the money I would to cover what I drew in May. Whatever money I sent them I would get credit for. I presume now they have more money than is necessary to cover my supplies during June.

Q. You still keep in advance a sum of money with the Curtis Publishing Company?

A. Yes, sir; I always have.

Q. Were you ever requested to handle the "Pictorial Review"?

A. No, sir.

Q. You were never asked to handle it?

A. No, sir; not by their representative. I handle it through the News Company and through Mr. Nichol.

Q. Do you know Mr. McMurray, the "Pictorial Review Company"?

A. No, sir.

Q. Do you know this gentleman (indicating Mr. McMurray)?

A. I think I have seen him, but I would not be sure.

Q. Did you ever remember of his coming in your place of business and asking you to handle "Pictorial Review"?

A. No, sir; I do not think I do. He may have been in there. There are so many that come to see me all the time I would not say yes or no. I do not remember.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Nelson, Mr. Spiess asked you if you still paid in advance for the Curtis papers, and you answered yes. Is it not true that there is a time of payment set forth in your contract with the Curtis Company, in the new contract?

A. Yes, sir.

Q. You do not pay in advance now?

A. No, sir; I said I always have money to my credit.

Q. You mean you have a bond?

A. Outside of the bond I have money to my credit in their hands. I pay in advance for this reason: There may be something come up that I could not remit on a certain day and in order to have my payments come in promptly, I prefer to have them get the money in advance.

Q. You pay for your papers Saturday after they are sold—is not that the day of payment?

A. Yes, sir.

Q. And before, under the old contract, you paid for them all in advance?

A. Yes, sir.

By Mr. Spiess:

Q. But you still keep on hand some money to the credit of your account to pay for the magazines you sell?

A. Yes, sir; for the reason I said, and it is the same way I keep money ahead with the New Orleans News Company.

Q. It is more convenient for you?

A. Yes, sir; it is better to send one hundred or two hundred or five hundred dollars at once than every week fifty or sixty dollars.

Q. I see.

A. That is the reason I do it.

By Mr. Milburn:

Q. You get five per cent. on any money you have up with them, do you not?

A. Yes, sir.

Mr. Milburn: That is all.

J. L. TENENBAUM was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Tenenbaum, where do you live?

A. Atlanta, Georgia.

Q. And are you the Curtis agent there?

A. I am.

Q. What magazines do you wholesale other than the Curtis magazines?

A. The Hearst group, the Munsey publications, "Collier's Weekly," the "Literary Digest," Warner publications, "Pearson's Magazine"——

Q. You are the big wholesaler there?

A. Yes, sir.

Q. What magazines did you take on first?

A. "The Saturday Evening Post."

Q. How long did you have the Curtis business alone?

A. Approximately six years.

Q. And then you took on the others?

A. Then I took on the Red Star News Company magazines and after that was taken away from us we were again "The Saturday Evening Post" agents and nothing else, for a period of two years.

Q. And then the others have come on more recently?

A. Yes, sir.

Q. As time passed, "The Ladies' Home Journal" and "The Country Gentleman" were added to the "Post" by the Curtis people?

A. Yes, sir.

Q. Do you distribute to the dealers?

A. Yes, sir.

Q. In your town?

A. Yes, sir.

Q. And have you also a staff of boys?

A. We have.

Q. How many have you?

A. Approximately 125 to 150 — in the neighborhood of 125 or 150.

Q. How did you get them?

A. Well, through the co-operation of the Curtis Publishing Company, by advertising in the newspapers and offering free copies to the boys with prizes to those who gave their best efforts in salesmanship.

Q. Do you wholesale any newspapers at all?

A. No, sir.

Q. Have you any boys other than the Curtis boys?

A. No, sir; only the Curtis boys.

Q. What do your Curtis boys handle?

A. Only the Curtis publications.

Q. Any of them members of the Curtis League?

A. They are; yes, sir.

Q. Do you take any particular pains about the instruction of their sales?

A. Yes, sir; we have monthly meetings at the Y. M. C. A., at which we generally have the prominent business men make an address, after which we serve refreshments and give movie parties.

Q. You have received bonuses and prizes for increased sales?

A. Yes, sir.

Q. In material amounts?

A. At times; we have.

Q. It is a material consideration in the business to you, is it not?

A. Yes, sir.

Q. Were you asked to handle "Every Week" recently—that is, since it has been taken over by the Crowell Publishing Company?

A. We were when it was operated by the Every Week Corporation.

Q. Did you take it on?

A. We did not.

Q. Why did you not take it on?

A. We did not think it would pay us to fool around with it.

Q. You were asked to handle "Pictorial Review," were you not?

A. Yes, sir.

Q. And received letter asking you?

A. Yes, sir.

Q. Did you take that on?

A. No, sir.

Q. Why was that?

A. Simply because it conflicted with the Curtis agreement.

Q. You communicated with the Curtis people, did you not?

A. Yes, sir.

Q. And they refused consent—is that the situation?

A. Yes, sir.

Q. Are you under the new contract, Mr. Tenenbaum?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What other business are you in?

A. The wholesale candy business.

Q. What proportion of your business is the wholesale candy business?

A. I should think about three-fifths of our business is the candy business.

Q. Are there any other wholesale agents or distributors in Atlanta?

A. The Georgia News Company, which is a branch of the American, and Mr. Jones, who is handling "Pictorial Review."

Q. How long has Mr. Jones been handling "Pictorial Review"?

A. I cannot say how long, but since Mr. McMurray or Mr. Graves was in Atlanta.

Q. Who handled "Pictorial Review" before Jones did—do you know?

A. The American News Company.

Q. Did you ever hear of Bevils Subscription Agency?

A. Yes, sir; but they have since gone out of business.

Q. They handled the "Pictorial Review," did they not?

A. Yes, sir.

Q. Do you know why the Bevils Subscription Agency went out of business?

A. On account of poor management on the part of Mr. Bevils.

Q. What do you mean by poor management of Mr. Bevils?

A. Just the business management.

Q. What do you know about his management?

A. Now, he formed a copartnership with Mrs. Barker there, and from the conversation I had with Mrs. Barker I gleaned the fact that he was dishonest and also did not pay attention to the business.

Q. Is it not a fact that he tried to go into the wholesale distributing business?

A. He did try it; yes, sir.

Q. And could not make a go of it?

A. I do not know how much he wanted to get into it. He merely said he would like to get into it.

Q. He made an effort, did he not?

A. I do not know that he made an effort.

Q. At the time he went out of the business, was not that the time he was trying to develop a wholesale distributing business?

A. He told me, his idea was to open a retail store on the main street and handle retail magazine business in addition to his subscription business.

Q. What is he doing now?

A. I really do not know. He has moved to Texas, I understand.

Q. So, when the "Pictorial Review" approached you to handle their magazine, you were the only wholesale distributor there, were you not?

A. Yes, sir; of course, you understand the Georgia News Company——

Q. That is a branch of the American News Company?

A. Yes, sir; that was there.

Q. Your bond has been increased under the new contract, has it not?

A. Yes, sir.

Q. That increase is in proportion to what your advanced remittances were under the old contract?

A. Approximately.

Q. How many boys do you say you have?

A. Between 125 and 150.

Q. How many master salesmen have you now?

A. Between two and three; I am not positive, because my brother and sister really handle the magazine end of it.

Q. When did you get the last master salesman?

A. I really do not know.

Q. Has it been within a year?

A. Yes.

Q. Six months?

A. Within a year.

Q. When did you get one before that—do you know?

A. About half a year before that.

Q. And you have gotten two within a year and a half?

A. Yes, sir.

Q. Do you know what Mr. Jones does outside of handling "Pictorial Review"?

A. He is an employe of the "Atlanta Georgian," an afternoon newspaper.

Q. Is he a boy or a man?

A. I don't know; I never met him.

Q. Do you know what equipment he has for distributing periodicals?

A. I think he has a machine; in fact, I know he has, as the dealers have told me that.

Q. How many retailers are there in Atlanta?

A. Of magazines?

Q. Yes.

A. About 125 to 150.

Q. Do you reach them all?

A. No, sir.

Q. How many of them do you reach?

A. We reach about 110.

Q. How often do you see them?

A. Well, we make deliveries anywhere from two to three times a week.

Q. How are they reached by the American News Company?

A. By auto truck.

Q. Have they a branch there?

A. The Georgia News Company is the name of the branch of the American News Company.

Q. That is in Atlanta?

A. Yes, sir.

Q. Do you reach all the retailers?

A. Yes, sir.

Q. When you were approached to handle the "Pictorial Review," you took up that proposition with the Curtis people, did you not?

A. Yes, sir.

Q. You asked for permission to handle it?

A. Yes, sir.

Q. You wanted to handle it, did you not?

A. I did not care particularly whether I handled it or not, because I asked Mr. McMurray when he came in how many copies they were selling, and he did not seem to have the records of it there. Of course, I did not particularly care whether we took it or not, from the monthly standpoint.

Q. You could have handled it all right, though, could you not?

A. I think so; yes, sir.

Q. That is one of the reasons you asked the Curtis Company for permission?

A. No, sir; we heard that the "Pictorial Review" was going independent, and I think we took the matter up with the Curtis Publishing Company previously to our being approached by the representative of the Pictorial Review Company.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. Had you heard from any source that Shaeffer or any other Curtis agents were handling "Pictorial"?

A. Yes, sir; Mr. McMurray informed us that Mr. Shaeffer of Pittsburgh was handling the "Pictorial Review."

Q. He is the Curtis agent there?

A. Yes, sir.

By Mr. Spiess:

Q. Do you know whether Mr. Shaeffer was handling "Pictorial Review" or not?

A. Well, I do not know; I had every reason to believe Mr. McMurray.

Q. You do not know whether he was telling you the truth or not, do you?

A. No, sir; I do not.

Baldwin Allen, was called as a witness on behalf of the respondent, having been first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Where do you live?

A. Tyler, Texas.

Q. Are you the Curtis agent there?

A. I am.

Q. How long have you been there as agent?

A. One year.

Q. Had you handled the "Post" before that, yourself?

A. Yes, sir.

Q. Do you distribute there to the dealers?

A. Yes, sir; I do.

Q. How do you distribute?

A. I distribute to R. D. Brown and other branches. I am the only wholesale news dealer there.

Q. You wholesale only the Curtis publications, do you not?

A. Yes, sir.

Q. Have you any boys under you?

A. Yes, sir.

Q. How many?

A. Thirteen.

Q. You keep track of them and see that they keep up to the mark?

A. Yes, sir.

Q. You keep their sales up?

A. Yes, sir.

Q. How old are you?

A. Fourteen years old.

Q. Have you received any bonuses or prizes in connection with this work?

A. Yes, sir; I have.

Q. What is the largest amount you ever received?

A. One hundred and fifty dollars.

Q. Have you received other sums?

A. Yes, sir.

Q. Are you in school now?

A. Yes, sir.

Q. You are the only magazine wholesaler in Tyler, are you not?

A. Yes, sir; I am.

Q. And the only magazines that are wholesaled in Tyler by independent wholesalers are the Curtis magazines?

A. Yes, sir.

By Examiner Moore:

Q. What is the size of Tyler?

A. Fifteen thousand.

Cross-Examination.

By Mr. Spiess:

Q. What did you get the $150.00 for?

A. For getting the largest increase.

Q. What was the increase?

A. It was the greatest increase of all the boys in the United States, in the different size cities—counting the size of the cities.

Q. When you won that prize of $150.00, what was your circulation of "The Saturday Evening Post"?

A. Well, I was not district agent at that time. I was a sub-agent, selling under Mr. Charley Bonner.

Q. You were just retailing then?

A. Yes, sir.

Q. You did not get a prize as a wholesaler?

A. No, sir; I was a sub-agent.

Q. By sub-agent you mean you were retailing them from house to house?

A. Yes, sir.

By Examiner Moore:

Q. How many did you sell in this contest?

A. At one time I sold 500—the greatest amount.

Re-Direct-Examination.

By Mr. Milburn:

Q. Outside of the $150.00, have you received bonuses as a wholesale agent?

A. Yes, sir; on the increase of my papers.

Q. How many newspaper wholesalers are there in Tyler?

A. Four.

Q. Handling different newspapers—is that correct?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Mr. Milburn: That is all.

MURPHY M. WILLIAMS, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. How old are you?

A. Sixteen.

Q. Are you the Curtis agent at Corsicana, Texas?

A. Yes, sir.

Q. How long have you been agent there?

A. Between three and four years.

Q. You are going to school now, are you not?

A. Yes, sir.

Q. Have you any boys under you?

A. Yes, sir; about seven.

Q. And you report their sales, do you?

A. Yes, sir.

Q. And keep track of their work?

A. Yes, sir.

Q. Does anyone else in your town act as wholesaler of magazines?

A. There are two, I think—the Rice Book Company and the Commercial Drug Store.

Q. They handle other magazines—is that corree

A. Yes, sir; I am not sure about the Commercial Drug Store, but I am about the Rice Company.

Q. You handle only the Curtis magazines?

A. Yes, sir.

Q. And you are under the new contract?

A. Yes, sir.

Q. How big a place is Corsicana?

A. About fifteen thousand.

Q. Are there newspaper wholesalers there?

A. Not that I know of—I think they are all retailers.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How old are you, Mr. Williams?

A. Sixteen years.

Q. Did the "Pictorial Review" ever ask you to handle their papers?

A. No, sir.

Q. You used to retail the Curtis publications?

A. No, sir; I started in as a district agent.

Q. You started in as a district agent?

A. Yes, sir.

Q. How many boys have you?

A. About seven.

Q. How many "Ladies' Home Journals" do your boys sell?

A. Well, I should say about fifty a month.

Q. How many "Posts" do you sell?

A. Between two and three hundred; of course, it goes down in summer and in the winter it is about 300.

Q. What is the total sales of "The Ladies' Home Journal"?

A. Each month?

Q. Yes.

A. About 150.

Q. The boys handle about one-third?

A. Yes, sir.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. Do you carry any "Posts" yourself, now?

A. No, sir.

Q. You do not carry any papers—you are just a wholesaler now?

A. Yes, sir.

GEORGE E. REEVES, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Greenwood, Mississippi.

Q. How old are you?

A. Fourteen years old.

Q. How big a place is Greenwood, Mississippi?

A. Well, the 1910 census it was 8000. It is about 10,000 or 11,000 now.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. How long have you been the Curtis agent?

A. Well, it is just a little bit over three years.

Q. And before that, did you sell the Curtis publications or "The Saturday Evening Post"?

A. No, sir; I started out as a sub-agent then.

Q. You were a "Post" boy?

A. Yes, sir.

Q. You did sell "The Saturday Evening Post" as a boy?

A. Yes, sir.

Q. And then became a district agent about three years ago?

A. No, sir; it has not been that long yet.

Q. About two years ago, was it?

A. Yes, sir; just about two years ago.

Q. Have you any boys that you distribute with?

A. I have one.

Q. One boy?

A. Yes, sir.

Q. What payments have you had outside of the commissions you earned on the sales of the papers—anything in the way of bonuses?

A. Yes, sir; I have gotten some bonuses—not much though.

Q. Do you handle any other magazines or any newspapers other than the Curtis publications?

A. No, sir.

Q. What position have you in the Curtis League?

A. I am a master salesman.

Q. When did you get that position?

A. I believe it was a year ago—a year ago the first of May.

Q. How many news dealers are there in Greenwood?

A. You mean agents——

Q. Retail dealers.

A. Five, I believe.

Q. You are the only person in Greenwood that wholesales magazines?

A. Mrs. Quain wholesales the "Commercial Appeal."

Q. That is not a magazine, is it?

A. No, sir.

Q. As a matter of fact, the Curtis publications are the only publications that are wholesaled in Greenwood?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You say you became a master salesman about a year ago?

A. Yes, sir.

Q. Were you retailing magazines then?

A. Yes, sir.

Q. When did you start wholesaling magazines?

A. Let me see—just about a year or two years ago.

Q. When you became a master salesman, you were a retail salesman?

A. Yes, sir.

Q. And your quota necessary to become a master salesman was brought about by the "Posts" you were selling wholesale and retail—is not that true?

A. I believe it is fifty "Posts" and thirty-five "Ladies' Home Journals" and twenty "Country Gentleman."

Q. Per month—the "Posts" per week and the others per month?

A. Yes, sir.

Q. How many "Ladies' Home Journals" do you sell a month?

A. I get one hundred "Ladies' Home Journals" per month.

Q. How many do you sell?

A. Myself?

Q. Of the hundred?

A. Well, now, myself, I sell about sixty-five.

Q. How do you sell them—from house to house or through the newsdealers?

A. I sell those sixty-five—I just go around. I have some regular customers and then house to house.

Q. And the other thirty-five you deliver to these retail newsstands—is that it?

A. Yes, sir.

Q. Did you give your age?

A. I told him I was 14.

EXAMINER MOORE: We will take a recess now for fifteen minutes.

SHAW JOHNSON was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Clarksville, Mississippi.

Q. How big is Clarksville?

A. Ten thousand.

Q. Are you the district agent for the Curtis Publishing Company at Clarksville?

A. Yes, sir.

Q. How long have you been district agent?

A. About two years.

Q. How old are you?

A. Sixteen.

Q. The contract for the district agency is in your name, or is it in your father's name?

A. My father's name?

Q. What do you handle wholesale in the way of magazines?

A. I just wholesale the Curtis publications.

Q. You do not wholesale any other magazines?

A. No, sir.

Q. Do you wholesale any newspapers?

A. I retail one.

Q. You do not wholesale any newspapers?

A. No, sir.

Q. How many boys have you making deliveries for you?

A. Two.

Q. How do they get their papers from you?

A. They come to me.

A. At your house?

A. No, sir; at daddy's office.

Q. Your father's office?

A. Yes, sir.

Q. Is there any other magazine wholesaler there?

A. No, sir.

Q. The Curtis magazines are the only ones wholesaled direct at Clarksville?

A. Yes, sir.

Q. Are there any newspaper wholesalers there?

A. One.

Q. What is his name?

A. C. L. Mays.

Q. What newspapers does he handle wholesale?

A. The "Commercial Appeal" and the "News Sumpter."

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Do you sell any magazines from house to house?

A. Yes, sir.

MR. WELCH: You mean Curtis magazines or other magazines?

By MR. SPIESS:

Q. Do you sell any Curtis magazines from house to house?

A. I deliver some of them from house to house.

Q. How many "Ladies' Home Journals" do you sell?

A. One hundred and twenty-five.

Q. How many do you sell from house to house?

A. About thirty.

Q. How do you distribute the others?

A. I carry them to the drug stores and retail them.

Q. How many "Posts" do you handle?

A. One hundred and sixty-five.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You were asked about selling the "Journal" and you said you sold thirty from house to house?

A. Yes, sir.

Q. To what other people do you sell the remaining ninety-five?

A. Two drug stores and two boys.

MR. SPIESS: How much do you sell to the two boys?

A. About fifteen.

E. M. CONNOR, JR., was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Connor?

A. Savannah, Georgia.

Q. How big a place is Savannah Georgia?

A. Ninety-five thousand.

Q. Are you the district agent for the Curtis publications at Savannah?

A. Yes, sir.

Q. How long have you been district agent?

A. Ten or eleven years.

Q. Do you sell wholesale any other magazines than the Curtis publications?

A. No.

Q. Did you ever wholesale any other magazines?

A. No, sir.

Q. How do you distribute the Curtis publications?

A. Through boys and through dealers.

Q. What means of delivery have you?

A. Through the boys and then to the agents.

Q. How do you get your magazines to the agents?

A. We have a delivery—some by wagons and some by hand.

Q. How many boys have you?

A. About 150 or 155—it varies.

Q. Are those boys schoolboys?

A. All schoolboys.

Q. How did you get those boys?

A. Through advertising and through the boys themselves.

Q. What do you mean by advertising—you mean by the Curtis Publishing Company?

A. Yes, sir.

Q. Has the roadmen helped you in any way in getting boys from time to time?

A. Yes, sir; they started the boys.

Q. Are these boys fairly permanent?

A. Yes, sir; we have had some boys four years. They stay on an average of nine months or six to nine months.

Q. Now, what have you done for the boys in the way of coaching or in the way of aiding them?

A. We have had ten club meetings—salesmanship meetings—and contests to encourage sales.

Q. Have you received any prizes for your work, or bonuses?

A. Yes, sir.

Q. In any appreciable amount?

A. Yes, sir; several pleasure trips and also cash prizes.

Q. Did you ever have anything to do with a camp for boys?

A. Yes, sir; we took a troop of I think six or eight boys to a camp in Michigan for, I think, about six weeks.

Q. Was that done under the auspices of the Curtis Publishing Company?

A. Yes, sir; it was a Curtis camp at Boys' City, somewhere in Michigan, I think.

Q. For about six weeks?

A. Yes, sir.

Q. What other wholesalers are there at Savannah?

A. There are two others.

Q. Of magazines?

A. Yes, sir.

Q. Who are they?

A. J. Gardner——

Q. What does he wholesale?

A. "Literary Digest" and "Collier's."

Q. What others?

A. C. Lamas.

Q. What does he wholesale?

A. All the other magazines.

Q. Just specify some of them?

A. Hearst's magazines and Crowell———

A. Munsey's?

A. Yes, sir.

Q. And other publications?

A. Yes, sir.

Q. He is the big wholesaler?

A. Yes, sir; he is the largest.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You say you have 150 boys?

A. Yes, sir; sometimes more and sometimes less.

Q. All schoolboys?

A. Yes, sir; we do not sell to any boys except schoolboys and do not sell during school hours.

Q. Not during the school hours?

A. Not to the boys; we deliver to the dealers.

Q. Have they a compulsory school law there?

A. No, sir; I do not think they have.

Q. Do you know of any boys around there that do not go to school?

A. All the Curtis boys are schoolboys.

Q. Of your own knowledge, do you know of any boys in Savannah who do not go to school?

A. Very few.

Q. It is hard to get boys who do not go to school?

A. Yes, sir.

Q. How long have you been out of school?

A. Less than two years.

Q. How old are you?

A. Twenty-one.

Q. What schools did you attend?

A. The public schools in Savannah and Georgetown at Washington, D. C.

Q. What did you take up at Georgetown?

A. The classical course.

Q. How long were you at Georgetown?

A. Four years.

Q. Who was the Curtis agent when you were at Georgetown?

A. The Connor Book Store, the same firm. I am the circulation manager of the company.

Q. You are not the agent for the Curtis Company, are you?

A. No, sir; I am not agent; the contract is not made out in my name; but in the name of the company—the Connor Book Store.

Q. When did you return from Georgetown?

A. Two years ago.

Q. Four years of this time you were not here distributing Curtis magazines?

A. During the holidays I was there, and at other times my father took charge, but I have been in and out of the store all the time.

Q. Gardiner has boys, has he not?

A. I do not think he has any regular boys.

Q. Do any of his boys come over and buy magazines from you?

A. No, sir.

Q. You are under the new contract?

A. The old contract.

Q. You have not had the contract changed, then?

A. No, sir; not the new contract.

Q. Have you been offered a new contract?

A. Not as yet.

Q. Was anything said to you about the new contract?

A. I have heard about it; we are very anxious to get it.

Q. What has been said to you about the new contract?

A. Just that there has been one. I heard there was one.

Q. Who told you about it?

A. I heard about it in the meeting here.

Q. Is that the first of the new contract you have heard, since you have been here in this court room?

A. No; I have heard it on the street, that there was a new contract. They seemed to be pleased with it.

Q. Before you came to New Orleans on this trip, you did not know of it?

A. No, sir.

Q. How much advertising has the Curtis Publishing Company done for boys in the past two years, in Savannah?

A. Why, they have sent to all of the Curtis boys cards——

Q. No; how much have they advertised for boys?

A. They have twice, I think, in the local papers. They have advertised for boys, offering to start them in the business.

Q. Is that all the advertising they have done for boys in the last two years, to your knowledge?

A. In that way; they have advertised through the boys themselves, asking them to get other boys—their friends.

Q. Is not that, as a matter of fact, the chief way they get boys, to ask boys they have already to bring other boys in?

A. No, sir; they advertise through the local papers and their own papers.

Q. If you know, what is the most effective way?

A. I think the best way is through the boys themselves. I think they get better boys.

Q. By bringing in other boys?

A. Yes, sir; their friends.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You say they advertised twice in the last two years in the local newspapers?

A. Yes, sir.

Q. There was no necessity for getting boys except on those two occasions—is not that a fact?

A. I do not think there was any particular necessity then. I think it was a national thing; they were advertising in all of the papers.

Q. In other words, you get all the boys you need?

A. Yes, sir.

Q. The contract is in the name of your company?

A. Yes, sir.

Q. What is that company?

A. The Connor Book Store.

Q. Who owns that book store?

A. It belongs to the estate of B. F. Connor.

Q. What do you mean belonging to the estate—who is the owner of it?

A. My family.

Q. Who has the full charge of the management of that company?

A. Miss Kate Connor is the executor.

Q. Who has charge of it?

A. She has charge of it.

Q. Who has charge of running the district agency?

A. I have charge of it.

Q. You have full charge of it?

A. Yes, sir.

Q. How long have you had full charge?

A. Two years.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. You say in the last two years there were only two occasions when it was necessary for the Curtis Publishing Company to advertise for boys?

A. No; I did not say that.

Q. Through the newspapers?

A. Twice they advertised.

Q. Did you not testifiy that was the time when they particularly needed boys?

A. No; just the opposite; I said there was a national advertising campaign at that time, and it appeared in my papers as well as other papers.

Q. Are there other times when you need boys?

A. No, sir.

Q. You always need boys, do you not?

A. I take any of the boys that come in, but I have always plenty of boys.

Q. But you are always ready to take on new boys—the more boys you have the more your circulation has increased, is it not?

A. Yes, sir.

MR. SPIESS: That is all.

C. R. REAGAN was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Alexandria, Louisiana.

Q. How big a place is that?

A. The Chamber of Commerce report 18,000, but the last census gave us 10,000.

Q. Are you the district agent for the Curtis Publishing Company?

A. I am.

Q. How long have you been district agent?

A. Since last October, 1917.

Q. Do you handle any other magazines or papers wholesale than the Curtis publications?

A. I do not.

Q. What other business are you engaged in?

A. I publish the state school journals and assistant superintendent of schools in that city and the surrounding parish or county.

Q. Have you any boys operating under you?

A. Yes, sir.

Q. How many?

A. Approximately ten.

Q. How many of these boys were turned over to you by the Curtis Publishing Company when you took the agency?

A. Three or four.

Q. And you, since, have acquired the balance?

A. Yes, sir.

Q. Have you been assisted by the Curtis Publishing Company in getting your boys?

A. Yes, sir; I was.

Q. Are there any wholesalers of magazines in Alexandria other than you?

A. Yes, sir.

Q. Who are they?

A. J. H. Evert.

Q. What does he wholesale?

A. He wholesales a number of other magazines.

Q. "Hearst's"?

A. I do not know positively, but I would guess so.

Q. How long has he been in business?

A. A number of years; he was there before I came there.

Q. To whom do the boys you have deliver their magazines?

A. To the people who—in the residential section of the town principally.

Q. Regular customers of the boys?

A. Part of them are.

Q. Are you under the old form of contract or the new?

A. The new one.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is your position now, outside of handling the Curtis magazines?

A. Assistant Superintendent of Schools for that parish——

Q. What?

A. Of that parish as we call it, or county. I am publisher of the State School Journal.

Q. You say the Curtis Publishing Company turned over to you in October three or four boys?

A. Yes, sir; I took three or four of the boys that the former agent had.

Q. Now you have ten?

A. Yes, sir; I have.

Q. And the Curtis Publishing Company assisted you in getting these other boys?

A. Yes, sir.

Q. Do you find any trouble getting boys?

A. There is no trouble; no, sir.

Q. Do you need any assistance to get these boys to handle the Curtis publications?

A. I have had assistance. If I had devoted my entire time to it I could have gotten sixty, I suppose.

Q. You could not devote your entire time to it and teach school?

A. No, sir.

Q. Do you know whether or not you could have gotten these six other boys if the Curtis Publishing Company had not helped you?

A. If I had given more time to it, I suppose I could have.

Q. What did they do to assist you to get these other boys?

A. Their district superintendent has been there a few times and seen some of the dealers and visited the schools and we have got a list of names of students whom special offers have been made or will be mailed in a few days and they have advertised in the local newspapers.

Q. Could you not use more than ten boys if you had them?

A. Surely.

Q. Why don't you get them?

A. When I get rid of one of my jobs I will. I have more than I can do now.

Q. That is the reason you have not more boys, is it not?

A. That is one of the reasons.

Q. What equipment have you for distributing magazines?

A. What do you mean by equipment—how do I get them to the retailers?

Q. To the retailers; yes.

A. I have a negro boy who delivers them. The boys come and get their own copies.

Q. How many retailers are there in that town?

A. About ten.

Q. How many "Ladies' Home Journals" do you sell per month?

A. From 200 to 300.

Q. How many do the boys take?

A. Approximately one-third of that number.

MR. SPIESS: That is all.

MR. WELCH: That is all.

CHARLES LONSBERG was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Albany, Georgia.

Q. How big a place is Albany?

A. About 10,000.

Q. What is your business, Mr. Lonsberg?

A. Books and stationery, pianos and victrolas.

Q. Are you the district agent for the Curtis Publishing Company at Albany?

A. I am.

Q. How long have you been district agent?

A. As district agent perhaps about twelve years, but I have handled the publications, I guess, almost ever since I have been in business, which is about twenty years.

Q. You mean prior to twelve years ago at retail?

A. Yes, sir.

Q. You have been the wholesale agent for twelve years?

A. Yes, sir, about.

Q. What do you handle other than Curtis publications?

A. At wholesale?

Q. Yes.

A. None at all.

Q. Have you any boys that work under you?

A. I have.

Q. How many?

A. Well, I have had as many as ten or twelve—at the present time I have just eight.

Q. What is the character of those boys?

A. The very best boys that are in the city.

Q. Do you know the parents of the boys?

A. Yes, sir.

Q. When you get a boy, do you talk to the parents?

A. Not only talk to the parents, but give the boys a special talk. I have meetings in the store. We encourage the boys and the roadmen that come along encourage them, and they are given instructions not only by ourselves, but by the Curtis people, and they get that individually also.

Q. Have you any master salesmen?

A. No, sir; we have expert salesmen.

Q. Has the Curtis Publishing Company assisted you in obtaining boys from time to time?

A. Very much.

Q. The roadman comes around at regular periods?

A. Yes, sir.

Q. Have these boys received any bonuses or money payments?

A. Quite frequently.

Q. Have you received any bonuses for your work as district agent?

A. Yes, sir; quite frequently.

Q. That is, over and above your commissions?

A. Yes, sir.

Q. Does that amount to any considerable sum?

A. I could not say how much it amounts to. The Curtis people offered us a bonus for getting expert salesmen, if we could get them, and I did, and they paid us.

Q. You have received other bonuses in the twelve years?

A. Yes, sir.

Q. Are there any other wholesalers of magazines there?

A. There is the Royal Ice Cream Parlor, that sells "Collier's" and "Literary Digest."

Q. How long have they been in business as wholesalers?

A. Something like two or three years.

Q. Any newspaper wholesalers there that you know of?

A. I could not say. We do not handle them that way and we do not know.

Q. Were you ever asked to take on the "Pictorial Review" at wholesale?

A. Yes, sir.

Q. What did you do about it?

A. Well, I believed that it would be in conflict with my Curtis contract, and I did not think it would be treating the Curtis people right by taking it on.

Q. You refused it?

A. Yes, sir.

Q. You did not ask the Curtis Publishing Company anything about it?

A. Yes, sir; I took it up on my own initiative not to take it.

Q. Was this Royal Ice Cream Parlor the other wholesaler in business at that time, if you know?

A. Yes, sir.

Q. At the time the "Pictorial Review" approached you?

A. Yes, sir; and I suggested to the gentleman who came to see me that he asked them to take it on, and that I would take my magazines from them.

Q. You mean for retail sale?

A. Yes, sir; I do not know why he did not take it. That I do not understand.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Who was it from the "Pictorial Review" that approached you?

A. If you will pardon me, I believe his name was Graves, a big, heavy-set gentleman.

Q. How long ago was that?

A. Why, within the year.

Q. Do you know whether he went around to the Royal Ice Cream Parlor to get them to take it on?

A. I suggested it to him. I thought of the proposition and considered it, but I believed I would be violating my contract with the Curtis people and therefore turned it down flatly.

Q. Had anything been said to you about that

clause in your contract which required you to notify the Curtis Company before you took on any other publications?

A. This gentleman argued at some length. I remember his sitting on the wrapping counter and arguing at some length it would not be violating my contract; that there were several other dealers in the country handling it.

Q. No, but did you——

MR. MILBURN: Let him finish.

MR. SPIESS: All right, go ahead.

A. He said there were several other dealers handling the papers that were Curtis agents, but I argued that it would be in conflict with my contract in so doing, and he argued at some length, but I went back and found my contract and showed it to him and said I really believed I would be violating my contract in taking it on.

By MR. SPIESS:

Q. Do you know when this was?

A. I beg your pardon?

Q. About when was this?

A. That I am afraid to say. It was in the fall, if I remember correctly.

Q. Last fall?

A. I think so.

Q. Before that, had you received any notice from the Curtis Company calling your attention to Clause 13 of your contract?

A. I do not remember about that, but I do know that when he brought the subject up, I thought of the matter of taking it on, and then I considered that I would be violating my contract by doing so.

Q. You handle only Curtis publications, do you not?

A. At wholesale; yes, sir.

Q. You could have handled the others if you had been permitted to do so, could you not?

A. I presume so.

Q. What proportion of your business is the Curtis publications?

A. How do you mean?

Q. What percentage of your business is the Curtis publications?

A. We have quite a considerable stock of goods in our house and the news part is simply an addition to the business. I have been handling it ever since we have been there, and that has been a great many years and our newsstand is known throughout our section as being the most reliable one. I could not know how to tell you other than that.

Q. Your newsstand is the best one there?

A. It is the best known, I should say.

Q. It has made a reputation for efficiency?

A. I hope so.

Q. Do you know how many boys there are in Albany?

A. I could not say. I know pretty nearly every one of them.

Q. Do you know very many bad boys there?

A. Of course, there are good and bad and indifferent.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Is the proportion of good boys or bad boys greater?

A. What do you mean by good boys and what do you mean by bad boys?

MR. DALY: That is all.

CHARLES J. ROSSY, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Rossy?

A. San Antonio, Texas.

Q. How big a place is San Antonio?

A. About 125,000.

Q. Are you the district agent of the Curtis Publishing Company at San Antonio?

A. Yes, sir.

Q. How long have you been agent there?

A. Almost twelve years.

Q. What do you sell wholesale?

A. "Saturday Evening Post" and "The Country Gentleman" and "The Ladies' Home Journal."

Q. Do you deal wholesale in any other publications than the Curtis publications?

A. No, sir.

Q. You handle only those?

A. That is all.

Q. How do you distribute the Curtis publications in San Antonio?

A. Through boys. I have 125 boys—and through dealers.

Q. How do you distribute to the drug stores or newsdealers?

A. By horse and wagon delivery.

Q. What is the general character of these boys that you have.

A. They are of the better class of boys.

Q. You say there are 125?

A. About 125; yes, sir.

Q. Is that a fairly permanent force?

A. Yes, sir; approximately. It is sometimes more and sometimes less—sometimes a little less.

Q. How many of these boys have been with you approximately for, say, a couple of years?

A. About twenty-five, I should judge.

Q. How many have you had for approximately about a year—can you give any figures?

A. I should say—I suppose 50 per cent. have been with me six months.

Q. Now, how did you get these boys that come to you?

A. Through advertising in the newspapers and through offering my regular boys coupons to get new ones.

Q. Who did the advertising in the newspapers—the Curtis Publishing Company?

A. Yes, sir; the Curtis Publishing Company.

Q. Has the roadman been around at any times to assist in getting boys?

A. Yes, sir.

Q. When you get boys, do you talk with their parents?

A. Yes, sir.

Q. Have these boys regular customers or do they get out haphazard?

A. No, sir; some of them have regular customers.

Q. Have you done any Y. M. C. A. work with the boys?

A. Yes, sir.

Q. Such as what?

A. Having meetings.

Q. Have any of these boys gotten prizes or bonuses to amount to anything?

A. Yes, sir.

Q. Can you specify any amount that any of the boys have gotten?

A. One boy won $150; another boy won $25 and several others similar amounts.

Q. You report these boys weekly to the Curtis Publishing Company?

A. Yes, sir.

Q. And the amount of their sales, do you not?

A. Yes, sir.

Q. Do any of those boys, so far as you know, sell anything else but the Curtis publications?

A. Well, there is about, I might say, ten out of the 125 that sell newspapers.

Q. But they do not obtain the newspapers from you?

A. No, sir.

Q. They do that entirely independently of their connection with you?

A. Yes, sir.

Q. Have you received any bonuses or payments for your work?

A. Yes, sir.

Q. About how much have you received?

A. Approximately, five, six or seven hundred dollars.

Q. Are there any other wholesalers of magazines in San Antonio?

A. Yes, sir.

Q. Who are they and what do they wholesale?

A. P. J. Lucas—he wholesales Hearst's publications and the "Pictorial Review," "Pearson's Magazine," the "Classic," the "Motion Picture"——

Q. Who else?

A. Louis Booking Cigar Store.

Q. What do they wholesale?

A. Munsey publications, "Collier's" and "Literary Digest."

Q. Any newspapers?

A. Newspapers also.

Q. Now, both Lucas and the Booking Cigar Store are larger than you, are they not?

A. Yes, sir.

Q. And the American News Company has a branch there?

A. The Texas News Company is the sub-agent at San Antonio.

Q. What equipment have these other wholesalers that you know of?

A. P. J. Lucas has a truck and the Booking Cigar Company has a horse and wagon.

Q. Mr. Rossy, you are still acting under what is known as the old form of contract?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Has anything been said to you about changing the form of contract?

A. Yes, sir.

Q. How recently?

A. Two or three months ago.

Q. Now, Mr. Rossy, whenever you receive a bonus from the Curtis Publishing Company or your boys ever receive a bonus, it was for increasing the sales of Curtis publications, was it not?

A. Yes, sir.

Q. Always?

A. Yes, sir; well, if the bonuses they put—it is for the effort they put up, you know.

Q. If their efforts were unsuccessful, they did not get the bonus, is not that true?

A. No, sir.

Q. What is the situation?

A. Well, it is according to how they increase their sales.

Q. If they do not increase their sales, no matter how much effort they put forth, they do not get the bonus?

A. Sometimes they give them extra vouchers for extra efforts.

Q. Will you give me an instance of a boy getting vouchers where he did not increase the circulation?

A. Well——

Q. You do not know of any, do you?

A. No, sir: sometimes I would put in a few vouchers for extra efforts. It does not amount to much.

Q. What you mean by "extra vouchers"?

A. Vouchers for helping the circulation.

Q. What is that?

A. It is a coupon.

Q. What does that entitle the boy to?

A. To premiums. We offer—with every twenty-five copies of the "Post" they get a brown voucher, which is equal to about four cents in merchandise.

Q. If a boy sold less than twenty-five, would you give him a voucher?

A. He would get four green ones, and five green ones equal one brown one.

Q. What is the green one for?

A. That is for five copies.

Q. When you received your bonuses, or bonus, as you say—$600.00 to $700.00—it was always based on an increase in the circulation from your agency—is not that true?

A. Yes, sir.

Q. Now, you say about 50 per cent of your boys stay with you about six months?

A. Yes, sir.

Q. Then, about—in the course of every six months you have to get from sixty to sixty-five new boys—is not that the idea?

A. Yes, sir; they come and go; some stick longer than others.

Q. Is it hard to get boys?

A. Well, sometimes it is and sometimes it is not.

Q. When is it hard?

A. Well, during vacations sometimes it is hard.

Q. It is hard to get them, then?

A. Yes, sir; then they get regular jobs sometimes.

Q. It is not hard to get them during the school terms?

A. We generally have an easy time getting them during the school terms.

Q. There are plenty of boys in San Antonio, are there not?

A. Yes, sir.

Q. But you have to advertise and go to the schools in order to get boys, do you not?

A. Well, I get to see the parents and the school teachers sometimes for the list of names of boys and get them that way.

Q. Do you have many boys come in and buy "Saturday Evening Posts" who have never been solicited?

A. Very seldom; most of the time we have had an offer on for twenty-five brown vouchers to any boy that brings in a new boy that sells forty to fifty copies.

Q. These boys bring in other boys?

A. Yes, sir.

Q. That is how you get the most of your boys, do you not?

A. That is the reasonable idea.

Q. How do you know a boy comes in answer to an advertisement that he sees in the paper?

A. I generally have it at a stipulated time to call at such and such an hour.

Q. How often does this happen that they advertise in the paper?

A. They advertise quite a little every three to six months if I am a little short on boys. If I advertise, the company pays for the advertising.

Q. When these advertising campaigns were going on, was that during a time that these bonuses were being offered?

A. Which bonuses?

Q. At the time these campaigns of advertising were going on—were there bonuses being offered at that time?

A. Yes, sir.

Q. Were there national bonuses being offered at that time—at the time these newspaper advertisements were inserted?

A. National—yes, sir.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. When a boy comes as an applicant and is finally accepted by you as one of the "Post" boys—one of the Curtis boys—he is put on your list, is he not?

A. Yes, sir.

Q. And then he becomes entitled to participate in any bonus or prize, and he receives certain pamphlets published by the Curtis Publishing Company?

A. Yes, sir.

Q. Until he is put on your list and accepted by you he is not entitled to any of those publications?

A. No, sir.

MR. WELCH: That is all.

EXAMINER MOORE: We will take a recess now until 2 o'clock.

(Whereupon, at 12.45 o'clock P. M., a recess was taken until 2 o'clock P. M. of the same day.)

(After recess, 2 o'clock P. M., the hearing was resumed pursuant to taking of noon recess.)

F. H. DUNCAN, was called as a witness on behalf of the respondent, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Austin, Texas.

Q. Are you the Curtis Publishing Company's district agent in Austin?

A. Yes, sir.

Q. How long have you been the agent?

A. One year.

Q. Who was the agent before you?

A. Chester A. Place.

Q. Did you sell "Posts" before you became the agent?

A. As a boy I sold them under Mr. Place, and also got them direct from the company before an agency was established in Austin.

Q. And when it was established you were given the agency?

A. Yes, sir.

Q. What other magazines do you wholesale?

A. The Hearst's publications, "Literary Digest" and Warner publications, the Motion Picture publications, "Pearson's Magazine," "Ten Stories," "St. Louis Dispatch" and several of the smaller ones.

Q. Does anybody else wholesale magazines in Austin?

A. So far as I know, there are three other wholesalers in Austin.

Q. Wholesalers of magazines?

A. Yes, sir.

Q. Who are they?

A. Mr. Halden wholesales Crowell publications; Mr. Grieg wholesales "Pictorial Review," and Mr. Selig wholesales the "Collier's."

Q. Who is that?

A. Mr. Selig wholesales "Collier's."

Q. You are the main wholesaler?

A. Yes, sir.

Q. You wholesale more than anybody else?

A. Yes, sir.

Q. Do you deliver to dealers?

A. Yes, sir.

Q. How do you deliver?

A. By automobile.

Q. And you also deliver through boys—is that correct?

A. Yes, sir.

Q. How many boys have you?

A. Between fifty-five and sixty-five, right now.

Q. What do they carry—what do they deliver?

A. Only, as far as I know of, except five or six, handle Curtis publications—they handle Curtis publications only. Those five or six—some of them—handle newspapers and only once in a while a boy asks me for a magazine that a customer has asked him to get for him.

Q. Are these boys all school boys?

A. Practically all of them—perhaps one or two of them are not school boys.

Q. Have you done anything in the way of instructing them or helping them?

A. I encourage them as much as possible when I come in contact with them, and we have meetings at various intervals and when the roadmen come through we have meetings.

Q. Are you under the new contract?

A. Yes, sir.

Q. Were you approached by the "Pictorial Review" to wholesale the "Pictorial Review"?

A. Mr. McMurray, of the Pictorial Review Company, came to Austin—I believe it was within a month after I had taken over the business of Mr. Place—but I was in school and could not see him, and he saw my father and left before I saw him.

Q. Did you ever ask permission of the Curtis Company or did they refuse permission?

A. No, sir.

Q. Did the Crowell people ask you to handle the Crowell publications?

A. Mr. Burley of the Crowell Company came through twice, at intervals of about two weeks, in the first part of March, I believe.

Q. What did he have to say to you about handling the Crowell publications?

A. I told him I was unwilling to run any risk of losing my Curtis deposit, although I did not think that the Curtis people would take that deposit away from me, and that I was unwilling also to go ahead, against the wishes of the Curtis Publishing Company, inasmuch as they were my principal publisher or connection, and that their contract was such that I did not feel like that I should enter into any relations with them. He argued with me quite at length and stated that a Curtis agent at Temple—I believe it was Temple, although I am not sure of that—when approached had asked time to see Mr. Stuart, one of the Curtis roadmen, about taking it over, and he went away and fooled around a while and came back in a couple of hours, and this Temple agent, after having talked with Mr. Stuart, took on the Crowell publications. That was just his argument. He argued that if one agent could do that, so could another, and if the roadman of the

Curtis Publishing Company was a friend of mine, he was not going to tell the Curtis Publishing Company on me.

Q. In the end you did not take it?

A. I did not; although I asked permission. I refused before asking permission, but I wanted to put myself on record with the Curtis Publishing Company.

Q. Permission was not granted?

A. No, sir.

Q. What is the population of Austin?

A. About forty or forty-five thousand at present.

Q. Are there other newspaper wholesalers in Austin?

A. Yes, sir; the "San Antonio Express' has an agency there; S. S. Pettus wholesales "Dallas News," and August Croener wholesales the "Houston Post," and Mr. Pettus also has the "Dallas News."

Q. Do you know what has become of Place?

A. The last I heard of him he was in Beaumont, in partnership with his father.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Do you know why these newspaper agents do not have a magazine store?

A. No, sir; I do not.

Q. When you wrote to the Curtis Publishing Company and asked permission to take on the Crowell publications, you were willing to handle them if they would give permission?

A. Certainly.

Q. You could have handled them, could you not?

A. Certainly.

Q. You could have handled the "Pictorial Review" if they had given permission?

A. Yes, sir.

Q. How long have you been agent for the Curtis Publishing Company?

A. One year on the tenth of May.

Q. You stated you handled the Hearst publications?

A. Yes, sir.

Q. What other publications do you handle?

A. The Warner publications and "Literary Digest," the Motion Picture Company's publications and "Pearson's"—"Ten-Stories," the Sunday editions of the "St. Louis Post-Despatch," the "Mid-Week Pictorial" and the "New York Times" and a few others—I do not know whether you would be interested in them or not; they are small magazines.

Q. How long have you been handling those publications?

A. The Warner publications, Motion Picture Company's publications—they were added; the Warner publications the first of January, and the Motion Picture publications about the first of February?

Q. This year?

A. Yes, sir.

Q. When did you take on "Hearst's"?

A. I took that over with the agency; Mr. Place had that agency and he transferred it to me.

Q. Did you buy Mr. Place out?

A. I paid Mr. Place $100 for the good will of the agency.

Q. He got these other magazine publishers to turn the agencies over to you?

A. He was leaving town and recommended they turn the magazines over to me. I applied for the agency at the same time.

Q. Were you handling Curtis publications at that time?

A. Why, at the time I wrote—You see it is this way: I took over Mr. Place's business one Thursday

and he turned over that week's "Posts" to me. I collected for them and distributed them and later we made the agreement—the Curtis Publishing Company drew up the agreement sometime later; but I was really a wholesaler before the Curtis contract was drawn up for all magazines, including the Curtis publications.

Q. You really made the arrangements with the "Hearst's" people before you made the arrangements with the Curtis people?

A. I do not remember whether that was the case or not.

Q. Don't you remember when you first took on the Hearst publications?

A. I distributed them—the first publication I distributed happened to be the "Cosmopolitan," which came out one Thursday, the tenth day of May; the "Post" came out on the tenth of May, and I distributed them both together. I do not know whether I signed the "Hearst's" contract before the Curtis contract or not.

Q. Have you a contract to handle the Hearst publications?

A. Yes, sir.

Q. Is there anything in their contract that you cannot handle any other magazines?

A. No, sir.

Q. Have you a contract with the "Literary Digest" people?

A. Yes, sir.

Q. Was there anything in their contract that you must not handle other magazines without their permission?

A. As far as I know there is not.

Q. Outside of the Curtis contract have you any contract that prohibits you from handling other magazines without their permission?

A. No, sir.

Q. Do you know why Place gave up his agency?

A. Not exactly; no, sir.

Q. Did he ever tell you why he was selling out to you?

A. No, sir; he never gave any reasons except his father had a rice farm and his father wished him down there to help handle the rice farm.

Q. When did you take over the agency from Mr. Place?

A. We made arrangements, I believe, to take over the agency on Thursday, which was the eighth of May, I believe.

Q. 1917?

A. Yes, sir.

Q. Was he handling the "Pictorial Review" then —wholesaling it?

A. I believe he got the "Pictorial" through the Texas News Company and resold it to one or two news dealers on merely an accommodation basis whose agents not wanting to order from the Texas News Company.

Q. Were you working for Mr. Place before you took over the agency?

A. No, sir; I have not been selling Curtis magazines for over four years.

Q. You did not step right into the agency from selling them, did you?

A. No, sir.

Q. Four years had elapsed?

A. Yes, sir.

Q. How long did you sell Curtis publications as a boy?

A. About five years.

Q. Right consecutively?

A. Yes, sir.

Q. Did you ever obtain any rank in the Curtis Company for membership in an association like the League Boy or Master Salesman?

A. No, sir; I do not believe I did.

Q. When were you approached to handle the "Pictorial Review"?

A. Why, to the best of my recollection, it was about the latter part of May or the first part of June, 1917.

Q. Who was handling it there at that time?

A. Mr. Walter Grieg.

Q. What did Mr. Grieg handle in a wholesale way outside of "Pictorial Review"?

A. So far as I know he handles nothing else.

Q. How long has Mr. Holden been handling the Crowell publications?

A. About one month.

Q. How long has Mr. Selig been handling "Collier's"?

A. I do not know; he was handling "Collier's" when I took over the agency from Mr. Place—probably three or four years.

Q. So, about a year ago, Mr. Place was practically the only wholesale distributor of magazines of that city, was he not?

A. Yes, sir.

Q. How many boys have you?

A. Between—let me see—between fifty-five and sixty-five or thereabouts.

Q. Now, do these boys sell anything else besides Curtis publications?

A. Only five or six of them.

Q. Do you report them as Curtis boys?

A. Yes, sir.

Q. What do you charge them for "The Saturday Evening Post"?

A. Three cents.

Q. You charge all the boys——

A. Three cents.

Q. What do you charge the retail dealers?

A. Three cents.

Q. You serve all the retail dealers?

A. Yes, sir.

Q. How many are there?

A. Retail dealers handling "Posts," you mean?

Q. No, how many retail dealers are there in your town?

A. About seventeen or eighteen—no, about nineteen.

Q. Do you reach all of them?

A. Yes, sir.

Q. Do you know whether the American News Company has a branch there?

A. It has not, as far as I know.

Q. How do they get their magazines?

A. Ship them from Dallas.

Q. Do you know of any American News Company agent that comes into the town and looks it over?

A. There was an American News Company agent —I believe his name was Webster—that came through about ten months ago, but I am not certain about the name—that is the only one in the last ten months so far as I know.

Q. Do you know how these retailers get additional supplies through the American News Company in case they are sold out?

A. As a general rule they either write or telegraph.

Q. The American News Company has no agent there every week to see whether they are constantly supplied with magazines?

A. No, sir.

Q. Do you see that your retail dealers are constantly supplied with Curtis publications?

A. Yes, sir; I go over them practically every day.

Q. Do you think that is a very necessary thing incident to the circulation of your magazines?

A. In a general way it keeps up the circulation. I

see that no dealer is entirely out of magazines, if I can get him any more.

Q. You try to keep him supplied all the time?

A. Yes, sir.

Q. That is part of your business as a Curtis agent?

A. Yes, sir.

Q. You think that is a very important part of your duties?

A. Yes, sir.

Q. Has your bond been increased to cover the advance remittances you used to make under your old contract?

A. Yes, sir.

Q. You say one or two of these boys are not school boys?

A. Well, I can explain that: The compulsory education law was passed in Texas not very long ago and I am not certain, but it is a graduating scale. The first year they are required to go so many months and the second year so many more months, and a great many boys go to school one day and stay out the next, and some boys do not go to school except that number of months in succession. There are a great many boys I have that do not go to school.

Q. How long has it been since they stopped going to school?

A. I do not know.

Q. Have they been going to school since you have had the agency?

A. I have not a boy who is selling for me now who has not been going to school some length of time.

Q. How many boys have you that you know of that do not go to school?

A. Two.

Q. How long have those two boys been selling for you?

A. They started—one started about two months

ago and the other one started about three months ago, but I am not certain whether he is still on the list. I think he is not, because I have not seen anything of him for a week.

Q. At the time you were selling him, did you know he was not going to school?

A. No, sir.

Q. When did you find out?

A. About three weeks ago; I found one of them was not going to school.

Q. Did you sell him after that?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You took over all the magazines in Mr. Place's business, in a lump?

A. Yes, sir.

Q. And completed arrangements with the different publishers as you received the contracts?

A. Yes, sir.

Q. Do you get any magazines from the American News Company?

A. No, sir.

Q. There is no reason for the American News Company man to come to see you if he comes to Austin?

A. No, sir; I merely met the American News Company man casually; he was in a store when I was going around.

Q. You do not know how many times he was in Austin before you saw him?

A. I do not know—perhaps a good many times. I understood he came around often.

MR. DALY: I do not think that should go in. I think that should be stricken out of the record.

By Mr. Milburn:

Q. What do you mean by "You understood that"?

A. I heard from dealers that the American News Company man comes to the town every two or three months. That is the only way I know.

Mr. Daly: That is not very often.

A. It is comparatively often.

Re-Cross-Examination.

By Mr. Spiess:

Q. Is that often enough to find out whether these retail dealers are constantly supplied with magazines?

A. I suppose the retail dealers, if they do not get their magazines on time, will raise a kick by mail or otherwise.

Q. Suppose you did not go around but once or twice in three or four months, would you think you were doing your duty to the Curtis Company?

A. I certainly would not.

Q. That is all.

Mr. Milburn: For the record, I wish to state that the reason the New Orleans agent is not called now, inasmuch as we are in New Orleans, is he is ill in bed and unable to appear.

James A. Mathews was called as a witness on behalf of the respondents, and, being first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Welch:

Q. Where do you live, Mr. Matthews?

A. Oklahoma City, Oklahoma.

Q. And what is your occupation?

A. Circulation manager of the publications of the Oklahoma Publishing Company.

Q. What are those two publications?

A. The "Daily Oklahoman" and the "Oklahoma City Times."

Q. How long have you been circulation manager of those papers?

A. Since February, 1912, of the "Oklahoman," and the "Times" was taken over on the first of the year 1916. That is the new publication.

Q. Will you state, Mr. Matthews, how the "Daily Oklahoman" and the "Oklahoma City Times" are distributed throughout the country through which they go?

A. Outside of Oklahoma City the papers are distributed by mail lists and by dealers in the principal cities.

Q. Do these dealers distribute to retailers or do the dealers sell to the public direct?

A. The dealers in a few instances sub-supply to retailers.

Q. Do these dealers that you refer to handle your papers alone or do they handle other newspapers—what is that situation?

A. The majority of our dealers handle our papers.

Q. Your papers alone?

A. Yes, sir; exclusively.

Q. And in certain instances they may handle other papers?

A. Yes, sir.

Q. Is there any arrangement or agreement between the newspapers with respect to these dealers or any particular dealer handling all the papers?

A. We have the dealer under contract with us——

Q. You have no arrangement with any other newspaper under which you combine upon one dealer?

A. None whatever; outside of our own two publication.

Q. What other leading newspapers are there in Oklahoma City and in the territory around there?

A. The "Oklahoma City News" at Oklahoma City, the "Times-Democrat" in Phoenix and the "Muskogee Democratic Times" and the "World" at Tulsa.

EXAMINER MOORE: What has become of the Guthrie paper?

A. It is like the capital. Guthrie is a very small town.

By MR. WELCH:

Q. Are you a member of the National Circulation Managers' Association?

A. Yes, sir.

Q. Are you an officer of that association?

A. Yes, sir.

Q. What position do you hold?

A. Secretary-treasurer.

Q. How long have you been connected with this association?

A. I became a member in 1912.

Q. And you were a director for some time?

A. For three years.

Q. Then you became the secretary-treasurer?

A. Yes, sir.

Q. And are now?

A. Yes, sir.

Q. Did that association have conventions?

A. Yes, sir.

Q. Have you attended those conventions?

A. Ever since and including 1912.

Q. Are these conventions attended by the circulation managers for the newspapers throughout the country?

A. Yes, sir.

Q. And I take it that most of the leading newspapers are represented?

A. Yes, sir; we have a membership of about 400 in the United States and Canada.

Q. Those conventions draw from the entire United States?

A. Yes, sir.

Q. At those conventions was the question of the circulation and method of circulation of newspapers discussed.

A. Yes, sir.

Q. Do you know, Mr. Matthews, of any section of the United States in which, at the present time, there is any combination of newspapers upon one wholesaler or one dealer in a given city?

A. I cannot recall any.

MR. DALY: Does he know?

By MR. WELCH:

Q. Well, you have heard the question of the circulation of newspapers discussed in these conventions?

A. Yes, sir.

Q. Will you state, from the knowledge you have as an officer of this association and from your attendance at these conventions, whether or not the newspapers in the United States distribute their newspapers in the manner described with respect of yourself or combined generally upon a wholesaler or dealers in the distribution of their newspapers?

MR. DALY: I object to that; in the first place, I objected because the question is too general. It is a sort of shotgun question; and, in the second place, he does not state that the whole country has been definitely covered, and the question is wholly improper and I object to it.

MR. WELCH: I do not know what Mr. Daly refers to when he mentions the whole country being covered.

MR. DALY: He speaks in a general way about the whole country being covered. He might an-

swer that question and show a situation that does not actually exist in some sections of the country; further, he says that there are only about 400 newspapers represented. He does not say that all of the circulation managers are represented. The question is entirely too general and could not give the Commission any information in regard to it.

EXAMINER MOORE: The objection is sustained.

MR. WELCH: I take an exception.

EXAMINER MOORE: An exception will be noted.

By MR. WELCH:

Q. With respect to these 400 more or less circulation managers that you met at these conventions and with whom you have discussed the questions of the methods of circulation, have you heard from any of them that they have arrangements with other newspapers for concentrating on one wholesaler or one dealer for the distribution of their newspapers?

A. I cannot recall any instance.

MR. DALY: I ask that the last question be stricken out. The only possible relevancy that question can have is this, Mr. Examiner, that in Chicago a witness testified, and Rose following this witness, Mr. Annensberg, either one or both of these men being circulation managers for the "Chicago Tribune"—these men testified and described the situation in and around and about Chicago, covering about 100 or 200 cities in which they definitely stated that this particular condition existed; that these agencies were all consolidated in these various cities, and the respondent now brings in a man and asks him if he heard, in a convention somewhere—he does not even say where the convention was held—he does not show that all these men are represented in these conventions—he—is trying to deny men are represented in these—a definite and positive situation

by such a general answer, and I object to it. I ask that that be stricken out.

MR. WELCH: The purpose of the objection so far as I can see is that it contradicts a witness called by the Commission. Mr. Matthews testifies that he is secretary and treasurer of the Circulation Managers' Association of the United States and that he has attended all of the conventions and they have met for the very purpose of discussing the methods of circulation of newspapers and the best methods of doing it throughout the country. I asked him whether, in these discussions, having attended every annual convention since 1911, and being in office and director of this association—I asked him whether he has ever heard of any arrangement among the 400 men that he has come in contact with—newspaper circulation men—which concentrates on one man, as Mr. Annenberg testified they did in 1906.

MR. DALY: He never asked that question, if your Honor please.

MR. WELCH: Yes, I did; it was the last question. Mr. Annenberg testified in 1906 that was done. I asked this witness, since 1911, by reason of the knowledge that he acquired at these conventions that he attended for the purpose of discussing these very matters, if this witness had heard of any such thing.

(Further argument off the record.)

MR. DALY: Mr. Examiner, I will withdraw my motion and let the answer stand.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, when did you attend the last convention, Mr. Matthews?

A. Atlanta, Georgia, last October.

Q. And what representative papers of the North were represented there?

A. The "Indianapolis News," the "Indianapolis Star" and the "Denver News."

Q. Are those all the papers of the North that were represented?

A. That is all I recall.

Q. Were the Chicago papers represented there?

A. No, sir; no member from Chicago.

Q. Were the New York papers represented there?

A. Yes, sir.

Q. Now, when was the convention held prior to the last one?

A. Grand Rapids, June of 1916.

Q. Were the New York papers represented there?

A. Yes, sir.

Q. And were the Chicago papers represented there?

A. Yes, sir; I think there was one member representing one of the Chicago papers.

Q. How long have you been attending these conventions, Mr. Matthews?

A. Since 1912.

Q. Do you attend any convention prior to 1912?

A. No, sir.

Q. Then, you could not testify about any conditions that existed throughout the country from such sources as you have described, prior to 1912, could you?

A. No, sir.

Q. You could not?

A. No, sir.

Q. Then, you would not know the condition that existed around and about Chicago and States nearby prior to 1912, through such sources, would you?

A. Only my personal knowledge.

Q. I am speaking about these sources—you would not know anything about it from those sources, would you?

A. No, sir.

Q. Do you know personally anything about the conditions that existed in Chicago about 1907?

A. No, sir.

Q. You do not?

A. No, sir; not definitely.

Q. You do not know that, do you?

A. No, sir.

Q. 1908, would you know?

A. No, sir.

Q. 1909, with reference to this same subject——

A. No, sir.

Q. What you know is what you have gleaned in discussion at conventions since 1912?

A. Yes, sir.

Q. And there was never any discussion described by learned counsel on the other side during that period?

A. The subject has been handled by members. We have a program at our conventions, and different subjects are assigned to the members, and, of course, in the range of subjects there would be, at some particular time, a subject of that kind handled by the paper.

Q. Was there any discussion at all about the consolidation of agencies handling more than one newspaper during the period you went there?

A. No, sir.

Q. What is the circulation of your papers outside of Oklahoma City—do you know?

A. Yes, sir; of course, we have a daily and Sunday issue. The Sunday is larger than the daily.

Q. Give the daily issues first.

A. The daily issue is about 50,000 outside of Oklahoma City.

Q. How many cities would that cover?

A. Three hundred cities and towns and villages.

Q. What states would that cover?

A. Principally Oklahoma.

Q. And comparatively speaking, they are all small places, are they not?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. You were asked about this subject of consolidating on one party. You said that it had been handled by some papers and then afterwards you said there had been no discussion about it, in answer to one of Mr. Daly's questions. You did not mean to say by that that the matter had not been generally talked about in these conventions?

A. In our sessions away from our program, just when members have had different conversations on subjects, and sometimes while a paper has not discussed at the convention, the member having that paper will have a group of men interested talk it over with him afterwards, and on some occasions we have had round-table talks, because the circulation, for instance, of a small paper would not be interesting sometimes to a large paper.

Q. When you stated in answer to Mr. Daly's question that that paper had not been discussed, you mean there had been no formal discussion and not that the paper had not been talked about?

A. My answer there should be along the line I cannot recall of any particular discussion of it personally.

Q. But you did talk over the general methods of distribution adopted and used by the various newspapers?

A. That is a topic of conversation at our conventions.

Q. At these talks and discussions that you have had there with respect to the circulation and distribution of newspapers—have they led you to think that newspapers do combine or do not combine?

MR. DALY: I object to that question; it is wholly improper. It is some sort of conclusion asked of this man—a conclusion that this man would have to arrive at through some process of reasoning. He asks "Led him to believe"——

MR. WELCH: I think it is perfectly proper for him to state the results of the discussions at these conventions.

MR. DALY: There is no doubt this witness can testify as to what he may have discussed at the convention in this case, as we are not trying to draw the lines so absolutely technically as we might in some other cases, but as to what he was led to think from a convention talk, he cannot testify to that.

By MR. WELCH:

Q. Did you, with respect to these talks and discussions you have had relating to the circulation of newspapers, hear of any instance in any section of the country where the newspapers combined upon one wholesaler for their distribution?

A. I cannot recall a locality where there is any combination or combining among competitors. That is, an evening paper with an evening paper. Now, I can recall a case at Seattle, Washington, where a morning paper and an evening paper, while independent of each other, practically have the same organization and road men and traveling men will do work for the other publication, but I cannot recall an instance where competitors have any agreement of that kind—any arrangement of that kind. Of course, there are some individual agreements, but any general arrangement is what I am testifying to.

Q. Yes; any general arrangement.

A. No, sir.

Q. Do you have any exclusive agents in your distribution?

A. Yes, sir.

Q. What do you mean by exclusive agents?

A. Handle our publications alone.

Q. Your newspapers?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Where was it that you heard this talk, Mr. Matthews, at the convention—was it actually in the convention or among your groups of men after the convention was adjourned or was not in session or something of the kind?

A. Well, it was mostly in the groups.

Q. Now, just what did you hear during the progress of the convention about these matters—was it ever discussed in the convention at all?

A. The circulation men, in localities, will have their own opinion on any proposition, just as lawyers and doctors and preachers, and some circulation men will think their method is better than the other man's methods.

Q. I am trying to find out where you had these discussions—were they ever in the convention at all?

A. Yes, sir; they have been in the convention.

Q. When were they up?

A. I could not tell you exactly.

Q. About how many times were they up?

A. I can only think of one time now.

Q. When was that?

A. Either at Grand Rapids or at Atlanta.

Q. Just what happened about it—now confine yourself to the convention and not the talks you had around on the outside—what actually went on about that?

A. Well, it is a point that was generally conceded, that the majority of the men were in favor of the exclusive plan.

Q. Why?

A. Because it is an expense, an individual expense, an expense to one company to build up an organization and they feel, in spending that money, and after having built it up, it should be theirs.

Q. Is that the question you were asked by Mr. Welch in the beginning?

MR. WELCH: It is an answer to your question.

By MR. DALY:

Q. Is that the only discussion that took place in the convention about that?

A. No, sir.

Q. I am not asking you about exclusive plans, but about the consolidation of papers throughout the country?

A. It is difficult to have much consolidation among competitive newspapers. They want to be independent of each other.

Q. Why do they want to go independent—was that stated there?

A. Well, they feel it is part of their organization or part of their institution.

Q. It might hurt their circulation—is not that correct?

A. In a degree; yes, sir.

Q. Now, what expense is there attached to that system?

A. Well, would you care for me to give you an extreme case or just the ordinary case?

Q. Just the ordinary general case. What is the expense. Is there any expense about it particularly?

A. A railroad puts on a new train into a new territory; it is a feeder for an increase of circulation. We assign one or two traveling men to make that territory. The traveling men go on that trip and here and there gets a very good agent. Again, it is impossible to pick the best agent in a town. He fails down and there is a break and there is another expense of going over that territory again and taking care of the breaks, and in some instances, you might have to go more than one or two times.

Q. They have all that difficulty, have they not?

A. They have the expense of the circulation organization.

Q. Then the combining of agencies would not help that particularly well, would it—is that correct?

A. Well, that is a question to two sides to it, in a way.

Q. Speaking of the western papers, you say there was a combination out there—why was that?

A. That was probably a friendly relationship between two publications, one a morning and one an evening paper.

Q. Do any of your wholesalers handle magazines?

A. A few of them.

Q. You permit them to do that, do you not?

A. Yes, sir; our contract reads "no other newspaper."

Q. The reason of that is because they are competitors, is it not—the reason you do not permit other newspapers?

A. Competing newspapers; yes, sir.

Mr. Dale: That is all.

HAROLD HOUGH, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Hough?

A. Fort Worth, Texas.

Q. What is your business?

A. Circulation manager of the "Fort Worth Star-Telegram."

Q. Is there any other paper connected with the "Fort Worth Star-Telegram"?

A. No, sir; one publication only.

Q. What is the "Fort Worth Record"?

A. That is a separate publication.

Q. An entirely separate publication?

A. Yes, sir.

Q. How is the "Fort Worth Star-Telegram" distributed in the territory it goes to?

A. In the outside territory through dealers and by postoffice and mail subscribers.

Q. Does the "Fort Worth Star-Telegram" use separate dealers or joint dealers with any other newspapers in that locality?

A. We use separate dealers wherever possible.

Q. And that, I suppose, is in most instances, is it not?

A. Probably 75 per cent.

Q. You have no arrangement or agreement with any newspaper or newspapers with respect to concentrating on any one dealer in any locality, have you?

A. No, sir.

Q. As a matter of fact, the various papers generally have separate dealers, do they not?

A. In our state almost invariably so.

Q. Now, how many newspapers are there at Dallas?

A. Four newspapers—three publishing companies.

Q. How far is Dallas from Fort Worth?

A. Thirty-three miles.

Q. Do you know how the Dallas newspapers are circulated also.

A. I am quite familiar with their circulation methods outside of Dallas.

Q. Does the same method of circulation that you have testified to about "Fort Worth Star-Telegram," with respect to using separate dealers, apply to these newspapers in Dallas?

A. It does.

Q. How far does that knowledge extend to any of the bordering states, with respect to this matter?

A. I am familiar with Oklahoma and with Texas papers which circulate in New Mexico.

Q. Does the same method of distribution and practice, with respect to using separate dealers, apply in that territory?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you have separate agents you have testified about that handle your papers. That is generally true, is it not?

A. Yes, sir.

Q. Do they handle anything else—ever?

A. Occasionally.

Q. Do they handle magazines?

A. Occasionally.

Q. They do not handle other newspapers in any case—is that correct?

A. No; in some cases they handle other newspapers.

Q. What cases are they?

A. Probably 25 per cent.

Q. Will you tell me in what cases they handle other publications and why?

A. Where one dealer handles more than one newspaper—in what cases—is that the question?

Q. This 25 per cent you are talking about—why does that situation exist?

A. That situation exists in the smaller towns of two or three hundred population that are very inconvenient for us to get our traveling men into with any frequency, and we have only a small affair there, usually just a drug store that makes no delivery anyhow. They simply lay the papers on the counter.

Q. In those cases you permit the dealers to handle other papers than yours?

A. Yes, sir.

Q. It is a matter of necessity in distributing your papers properly—that sort of system?

A. It would be a necessity.

Q. Either that or you would have to spend a large sum of money to get a circulation in these small communities—is that correct?

A. Either that or we would have to transfer them to the mailing list; in other words, take the individual subscriptions.

Q. That is not only expensive, but——

A. Our experience has been that it is frequently less expensive than the dealers.

Q. Why do you do it the other way, then?

A. You can get better service in the larger towns.

Q. You get in closer touch with the people through this other service?

A. Yes, sir.

Q. How large is your paper?

A. We have 66,000 approximately, daily.

Q. How many towns does that cover?

A. I should judge that we circulate in five or six hundred towns.

Q. How much is in Dallas or in your town, Fort Worth?

A. In Fort Worth, 27,000.

Q. And the remainder of them is in these other towns—is that correct?

A. Yes, sir.

Q. Are your men on a salary?

A. They are—you mean the traveling men or the agents?

Q. The agents.

A. No, sir.

Q. The traveling men are on salaries?

A. Yes, sir.

Q. What do you use the traveling men for?

A. They not only solicit direct mail subscriptions, but they appoint new agents and change agents that have resigned and look after the territory generally.

Q. Now, the other seventy-five per cent. that you have spoken about here do not handle anything except your papers?

A. Do not handle any other newspapers.

Q. No other newspapers except yours?

A. Yes, sir.

Q. Why is it you do not permit that?

A. Because we figure it is a detriment to our service to have them handling other newspapers than ours. They will not be as loyal to our paper as——

Q. They are competitors of yours, as well?

A. How is that?

Q. They are competitors of yours, too, are they not—that is, the other newspapers compete in the same territory with you, do they not?

A. Yes, sir.

Q. That is one of the reasons, is it not?

A. Yes, sir; that is one of the reasons.

MR. DALY: That is all.

MR. WELCH: That is all.

CLINT MCDADE, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. What is your business?

A. I am superintendent of agencies for the Curtis Publishing Company.

Q. And what district do you cover?

A. Western Texas and part of Oklahoma and part of New Mexico.

Q. How many towns in all?

A. Twenty-three towns.

Q. Does that mean twenty-three different agents?

A. Yes, sir.

Q. You have direct supervision over them, have you?

A. Yes, sir; I really have twenty-four towns in my territory, but I only reported on twenty-three; the report on the other small town was lost in the mails, some way. I have twenty-four towns really.

Q. That town was lost?

A. Yes, sir.

Q. What town was that?

A. Mineral Wells, Texas. It is a town of about 4000 population, I should judge.

Q. You have an agent there?

A. Yes, sir.

Q. That report will not be included in the total figures you give?

A. No, sir.

Q. How long have you been in this district?

A. One year.

Q. Have you been to all of your towns?

A. Yes, sir; part of the towns I have been in two years; part of the towns are in my old territory.

Q. You are familiar with the situation in these towns?

A. Yes, sir.

Q. And know your agents?

A. Yes, sir.

Q. Have you, in the past few months, been making a special investigation on the wholesale question, at the request of the Curtis Publishing Company?

A. Yes, sir.

Q. And you have collected certain information?

A. I have.

Q. And you have made certain reports?

A. Yes, sir.

Q. Which we call the white and pink slips—is that correct?

A. Right.

Q. Now, in how many towns which you have covered, is there only one wholesaler?

A. Thirteen—of magazines, I mean.

Q. And now, not counting the newspapers at all, how many of your agents wholesale only Curtis magazines?

A. Eighteen.

Q. Do you know how many of your agents began their magazine business with the Curtis magazines?

A. Twenty.

Q. In how many of the towns where the Curtis agent handles other magazines is that agent the only wholesaler of magazines?

A. Three.

Q. Now, in making this investigation, what did you do?

A. I visited my agents, and unless I was entirely familiar with his previous business, I asked him questions about the other wholesalers in the town and went around to the individual dealers and looked on their stands for the periodicals I know to be distributed independently of the news company, and asked where they got them—and also about newspaper circulation matters.

Q. You verified your information, did you?

A. Yes, sir.

Q. And have you made changes, we will say, in the last year, in your agents?

A. Yes, sir.

Q. And you changed some because they were handling "Pictorial Review"?

A. Yes, sir; three.

Q. And you have made other changes for various reasons?

A. Yes, sir.

Q. Have you had any difficulty in finding a new agent to serve you?

A. I have one little town where there is a drought there and nobody has any money. I had to spend two days there; that was Stanford.

Q. Is that the only town you had difficulty in obtaining agents?

A. Yes, sir; practically so. I had agents ready in all of the other towns.

Q. How many of your agents are boys?

A. I have got about seven boys, I believe.

Q. Just generally speaking, in what business are the adult agents?

A. One is a druggist and one is a physician and one is manager of Hart-Dunn & Company, and one is a banker and one runs a large wholesale dry goods house.

Q. You have some stationery men?

A. You asked about the boys—I misunderstood you. I thought you asked about the parents of the boys. I understood you to say that.

Q. In this list you have just given, you referred to the business in which the parents of the boys are engaged?

A. Yes, sir.

Q. I asked about your adult agents?

A. Druggists, usually, and some have stationery and books and office supplies.

Q. I suppose, with starting in with agents, you very frequently start them in the magazine business?

A. Yes, sir; always.

Q. In other words, they have not been handling magazines before?

A. No, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You say there are twenty-three different agents in these towns?

A. Yes, sir.

Q. And seven are boys?

A. Seven, I believe.

Q. That leaves sixteen other agents?

A. Yes, sir.

Q. Now how many of them handle other magazines —how many of the sixteen?

A. Six.

Q. In what towns are they?

A. Waco, Del Rio, San Benito, Beeville, San Angelo, and Corpus Christi, Texas. I might add that at Corpus Christi I have changed the agency and he does not handle other magazines now.

Q. At the time of making the report there were six towns that handled your magazines and others?

A. Yes, sir; adult agents.

Q. And you have named the towns?

A. Yes, sir.

Q. Now, that is thirteen, is it not, six towns with an agent—six towns and seven towns, that leaves thirteen out of the twenty-three—no; it is ten.

A. Thirteen is right, though.

Q. What kind of agents are they?

A. Druggists and——

Q. Do they handle anything besides your magazines?

A. I am a little bit off on that. You will have to state your original question.

Q. I said you have seven boy agents who handle nothing but your magazines?

A. One of them does. Fred Duncan, of Austin, who just testified, handles other magazines.

Q. I did not know that.

A. He handles the Hearst group and "Literary Digest" and several others.

Q. That leaves six boy agents?

A. Yes, sir.

Q. They handle nothing else?

A. No, sir.

Q. We will eliminate them. Then there are six towns which make twelve, which you have named; that leaves ten. There are six towns in which the agents handle your magazines and other magazines. That makes twelve we have accounted for?

A. Yes, sir.

Q. And one of your agents who handles other magazines; that makes thirteen?

A. Yes, sir.

Q. What are the other ten?

A. San Antonio, Texas; Weatherford, Texas——

Q. What do they handle?

A. Nothing but Curtis magazines.

Q. They do not handle newspapers?

A. Some do and some do not handle newspapers.

Q. Which ones handle newspapers out of the ten?

A. Weatherford, Texas; Milan, Texas; Beeville, Texas; Altus and Hobart.

Q. Is that all of them?

A. I will have to refer to my sheets.

MR. SPIESS: That is five of them.

MR. DALY: You can refer to them.

THE WITNESS: I find, in looking over the papers, there are only six boys; I also find I will have to cut out Waco and Corpus Christi, as the agents handle other than Curtis magazines and the slips show that five handle other than Curtis publications.

By MR. DALY:

Q. Now, in San Angelo, Texas, your man is J. E. Potter, and he handles the Hearst group, the Munsey group and yours?

A. Yes, sir.

Q. J. F. Matthews handles "Pictorial Review," "Literary Digest" and the Warner group. Do you know when Matthews took on those magazines?

A. He has been handling some magazines wholesale ever since I have been going there—about two years.

Q. What ones did he handle for about two years?

A. "Hearst"——

Q. Your man handles "Hearst's." You have in your report he handles the "Pictorial Review." How long has he handled it?

A. I do not know. He handled it until I made the report.

Q. And the "Literary Digest"?

A. I do not know that. It had been my impression he was a wholesaler——

Q. Your man is the leading man there in the wholesale magazine business?

A. I could give anyone our agency and make him the leading man.

Q. Do not answer that way; say he is or is not.

A. He is.

Q. Your plan is to get the best man in there—in every community?

A. I get the man who I think will promote the sale of our magazines best.

Q. The man who has the best equipment and best calculated to sell your magazines is the man you choose —is not that the idea?

A. Yes, sir.

Q. You think Matthews is that man there, do you not?

A. I have not got him.

Q. You have changed lately, have you not?

A. No, sir.

Q. I did not mean Matthews; I meant Potter.

A. Yes, sir.

Q. Now, in Del Rio, Texas, your man handles "Collier's" and yours?

A. Right.

Q. He is the only magazine dealer there, is he not?

A. Yes, sir.

Q. And was at the time this report was made?

A. Yes, sir.

Q. You have him under contract, have you not?

A. We have.

Q. Is he under the new contract?

A. He is.

Q. Has the new contract been generally put in force in your district?

A. No, sir.

Q. Now, Ballard has already testified. Ballard handles the Hearst group and your group, and he is the only magazine wholesaler in your town, is he not?

A. Yes, sir.

Q. In San Benito, Texas, your man is Frank W. Roberts and he handles your papers and the Munsey group—is that right?

A. Yes, sir.

Q. And he is the only wholesaler there?

A. Yes, sir.

Q. Does anybody handle "Pictorial" there—do you know?

A. No, sir.

Q. Did you make any inquiries as to who handles these other magazines there?

A. Yes, sir.

Q. What did you do before you went on as superintendent of agencies?

A. District agent.

Q. Where were you district agent?

A. Dallas.

Q. How long were you there?

A. From September, 1915, to June or July, 1916—June, I think it was.

Q. Where did you go from there?

A. I went on the road.

Q. When were—where were you prior to the time you went to Dallas?

A. Oktahi, Oklahoma.

Q. What did you do there?

A. Cashier of a bank there.

Q. Then you went down and took this agency?

A. Yes, sir.

Q. Who has that agency now?

A. A man by the name of Caines.

Q. He took it over from you?

A. No, sir.

Q. You established a new agency?

A. No, sir.

Q. How did you do that?

A. Another man fixed that. That is not in my territory.

Q. Is your agency there a success now?

A. Yes, sir.

Q. You made it go, did you?

A. I certainly did.

Q. In your travels over your territory, what do you do about instructing your agents—you are the man that does that, are you not?

A. Yes, sir.

Q. Where did you get your training to instruct the agents?

A. The supervisor of roadmen took me around with him and taught me how to do it.

Q. You went around with him?

A. Yes, sir.

Q. How long were you on that job?

A. I would say about five weeks.

Q. You went down—went around about five weeks and then took charge of these agents?

A. Yes, sir.

Q. And prior to that time you had no experience in the magazine business except what you had had as a district agent? Is that correct?

A. I handled other magazines while I was a district agent. Is that the meaning of your question?

Q. I mean your experience in the magazine business with what you got in that year you were a district agent?

A. Right.

Q. Then you undertook to go out and instruct these men what do do—is that correct?

A. I did instruct them.

Q. Now, in this territory, these towns are mostly small, are they not?

A. Yes, sir.

Q. And the circulation of your paper is small—is that so—compared with more populous sections?

A. Yes, sir.

Q. About what circulation is there of your magazines in the territory you represent—how many "Posts" are circulated there, do you think?

A. I do not remember the last figures, but approximately 9000, but I——

Q. How many "Country Gentlemen"?

A. About 1000.

Q. And how many "Ladies' Home Journals"?

A. I do not remember.

Q. Can you not give the approximate amount—I do not want the exact amount—somewhere near the amount?

A. I have not got that data. I am off on the "Post." We have nearly 9000 in San Antonio on the "Post" alone, and we must have about 15,000 on the "Posts" and about 9000 on the "Journal" and 10,000 on "The Country Gentleman."

Q. You think that would be somewhere near it?

A. Yes, sir; "The Country Gentleman" is, I know.

Mr. Dees: That is all.

Examiner Mann: We will adjourn now until 10.30 o'clock Monday morning.

(Whereupon, at 4.00 o'clock P. M., an adjournment was taken until Monday, May 13, 1918, at 10.30 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
The Curtis Publishing Company.
} Docket No. 15.

New Federal Building, New Orleans, La.,
Monday, May 13, 1918.

The above-entitled matter came on for further hearing at 10.30 o'clock A. M., pursuant to adjournment.

Appearances: As heretofore noted.

R. A. DUNLAP was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Dunlap, what is your business?

A. Roadman, for the Curtis Publishing Company.

Q. And how long have you been a roadman—connected with that company?

A. Three years.

Q. What district do you cover?

A. Oklahoma, Missouri and Arkansas—sections—most of Oklahoma.

Q. How long have you been in that district?

A. The Oklahoma territory since I first took it; Missouri and Arkansas territory a little over a year.

Q. How many towns do you cover in that district?

A. Thirty-nine.

Q. And are there thirty-nine different agents in those towns?

A. That is, of the Curtis agents, you refer to?

Q. Yes.

A. Yes, sir.

Q. Are you familiar with the conditions in these thirty-nine towns?

A. Yes, sir.

Q. With reference to wholesaling publications?

A. Yes, sir.

Q. And you know these different agents, do you?

A. Yes, sir.

Q. Have you, in the last few months, made an investigation as to the situation in wholesaling magazines, for the Curtis Publishing Company?

A. I have.

Q. And have you reported the results of this investigation to the Curtis Publishing Company?

A. Yes, sir.

Q. And those reports are made on the pink and white slips, are they not?

A. Yes, sir.

Q. What investigation have you made in the different towns—how have you conducted the different investigations?

A. By visit to the retail dealers and agents of the various publications and also interviews with the circulation departments of certain papers.

Q. Now, in how many of the towns covered by you is there only one magazine wholesaler?

A. Twenty-four.

Q. And how many of your agents wholesale only Curtis magazines—when I ask that question, I am not counting newspapers at all—just handle only the Curtis magazines?

A. Curtis only?

Q. Yes.

A. I beg your pardon. What was the other question?

Q. The first one?

A. Yes, sir.

Q. In how many towns is there only one wholesaler?

A. Twenty-four. I gave the correct answer, I find.

Q. There is only one wholesaler in these twenty-four towns?

A. Yes, sir.

Q. How many of the agents whom you covered wholesaled only Curtis magazines?

A. I will have to refer to my notes on that. I am not sure of that.

Q. Very well.

A. Thirty-two.

Q. And how many of your agents began the magazine business with the Curtis magazines?

A. Each of the thirty-nine.

Q. All of them?

A. Yes, sir.

Q. In how many of the towns where the Curtis agent handles other magazines, if any, is he the only wholesaler?

A. Six.

MR. DALY: What was that question?

MR. MILBURN: In how many towns where the Curtis agent handles other magazines is he the only wholesaler in that town?

That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. In your district, have you put in the new contracts with the agents?

A. I have.

Q. In all cases?

A. Oh, you mean the new contracts?

Q. Yes.

A. Some cases not.

Q. Have you put in contracts in the six towns where your agent handles other magazines?

A. You mean where they handled it?

Q. In the six towns that you have testified about where your agent handles not only your magazines, but others, and is the only agent?

A. The only agent in the town?

Q. Yes.

A. Some I have and some I have not.

Q. In what towns did you put in new contracts?

A. In which of those six?

Q. Yes.

A. McAlester, Oklahoma; Sapulpa, Oklahoma—those two.

Q. And in the other four the old contracts still exist?

A. Yes, sir.

Q. Have you made any efforts to put in the new contracts in those towns?

A. I have not.

Q. Have you men in the towns at all lately?

A. I have.

Q. Why have you not put the contracts in the other four?

A. I have not been satisfed in all of these towns that it was the agent I desired.

Q. What investigation have you made as to procuring an agent in these four towns?

A. Absolutely none.

Q. How long have these agents been in the towns?

A. In one case seven years, and another one about a year and another one a year and a half, and another one seven years, I guess.

Q. What are the four towns where you have not changed the agents?

A. Oklahoma City, Joplin, Missouri; Tulsa, Oklahome, and Fort Smith, Arkansas.

Q. These are all large towns, are they not?

A. They are moderately large.

Q. Much larger than McAlester and Sapulpa?

A. Part of them—Fort Smith, Arkansas, is not very much different.

Q. In Fort Smith, who is the big wholesaler there?

A. Rhinders & Rhinders.

Q. What do they handle?

A. Well, comparatively all the magazines that are wholesaled in the town.

Q. They handle your publications?

A. Yes.

Q. And they are the leading wholesaler there?

A. Yes, sir.

Q. In Tulsa, who is the large agent?

A. The Tulsa News Company.

Q. And they are your agent?

A. Yes, sir.

Q. And have been for some time?

A. A year ago last September I think I put them in as agent.

Q. And they handle the other magazines as well as yours?

A. Yes, sir.

Q. Who was the agent before that?

A. Our agent was Hodges.

Q. Why did you change Hodges?

A. Because of financial difficulties. Mr. Hodges could not keep up remittances with us.

Q. The man you have there is the best man there?

A. I consider him so, or I did, at the time I put him in.

Q. At Joplin, who is agent there?

A. The Adams News Company.

Q. Does he handle other magazines as well as yours?

A. He does.

Q. How long has he been your agent?

A. I believe it was a year in September; I am not sure as to his time.

Q. He is the best man there, is he not?

A. I would not say that any of these are the best men.

Q. They are big wholesalers?

A. Yes, sir; he is the only wholesaler at present.

Q. Now, in Oil City——

A. You mean in Oklahoma City?

A. Yes.

A. Harvey P. Edwards.

Q. He is the big wholesaler there?

A. He is the only wholesaler.

Q. He handles other magazines than yours?

A. Yes, sir.

Q. Any newspapers?

A. A few Sundays.

Q. Does the man at Joplin handle newspapers?

A. Yes, sir.

Q. And Tulsa?

A. Yes, sir.

Q. And Fort Smith?

A. Yes, sir.

Q. And he handles your publications and is under contract with you?

A. Yes, sir.

Q. Is he under the new contract?

A. He is not.

Q. Is it your intention to put him under the new contract?

A. No, sir.

Q. Why not?

A. I do not think he is the agent we wish to continue with.

Q. Why?

A. Because of other publications.

Q. He handles "Pictorial Review"?

A. Yes, sir.

Q. You object to that?

A. Yes, sir.

Q. Does he handle "Every Week"?

A. Yes, sir.

Q. You are going to change him for that reason? son?

A. Yes, sir.

Q. And in Joplin?

A. The same condition exists.

Q. You are going to change that agent?

A. Yes, sir.

Q. The same facts are applicable—is that correct?

A. Yes, sir.

Q. And at Tulsa?

A. That agent will likely not be changed.

Q. Is he handling "Pictorial Review"?

A. No, sir.

Q. Is he handling "Every Week"?

A. No, sir.

Q. Did he ever handle them?

A. He did.

Q. What did you do about that?

A. I asked him if he was with us or not.

Q. And he gave them up, did he?

A. Yes, sir; he did not have the Crowell publications.

Q. Well, "Pictorial Review" he did handle?

A. Yes, sir.

Q. And you called attention to his contract, did you?

A. I did.

Q. And he gave up the handling of those publications?

A. He did.

Q. Now, at Fort Smith, what happened about the "Pictorial Review," if anything?

A. Nothing; he is handling them and I will place a new agent.

Q. You are going to place a new agent for that reason?

A. Yes, sir.

Q. And does he handle "Every Week"?

A. He does.

Q. In Oklahoma City, how many magazines are circulated through that agent of yours?

A. You mean how many copies of our publications?

Q. Yes.

A. I think his draw at present is 2800 "Posts," 2600 "Journals," and 500 "Country Gentleman."

Q. Now, take Joplin?

A. Joplin is about 1300 "Posts," 950 "Journals," and 400 "Country Gentleman."

Q. Take Tulsa.

A. Tulsa is about 1800 "Posts" and about the same on "Journals."

Q. And Fort Smith?

A. That will run from about 350 "Posts"——

Q. How many "Ladies' Home Journals"?

A. About 300.

Q. Now, in McAlester, Oklahoma, what is your circulation?

A. Three hundred and seventy-five "Posts," I think is his draw, and about the same on "Journals."

Q. And in Sapulpa?

A. About 200 "Posts" and about 250 "Journals," I think.

Q. Those figures that you are giving me include the numbers that are circulated through boys?

A. They do.

Q. Do you know the proportion that are circulated through boys in these six cities?

A. Well, running generally over my territory, it is mighty near a fifty-fifty proposition.

Q. You think that is correct in your territory?

A. That is a rough estimate; it is practically correct.

Q. How about "The Ladies' Home Journal"?

A. Virtually the same.

Q. In the "Journal" it is about the same proportion as the "Post"—you testify to that, do you?

A. Yes.

Q. And "The Country Gentleman"?

A. The boys are selling more of "The Country Gentleman" than they are through the dealers.

Q. You think the proportion is larger in that case?

A. Yes, sir.

Q. Now, then, can you give me your circulation approximately in the other thirty-three towns?

A. It would have to be an approximate estimate, because I have no figure on the circulation, and I think the records on that——

Q. Make an approximate estimate.

A. Those towns represent, I imagine, seventy-five per cent. of the other towns—no, they will not run that. They represent about half——

Q. Half of the circulation?

A. No; they will not do that—it is about thirty-three and a third per cent.

Q. About a third of the circulation?

A. Yes, sir.

Q. In the thirty-three towns——

A. No; the four you mention would represent about a third of the circulation throughout the territory. The others would be about two-thirds—the thirty-three towns would represent about two-thirds of the circulation.

Q. In the six towns we have talked about, what percentage would that represent?

A. About a third, and the other three-three would represent the other two-thirds.

Q. That would be applicable to each of the magazines we have spoken about?

A. Virtually the same.

Q. Leaving out of the circulation these six towns, can you give me the towns in which your agent handles newspapers as well as your magazines?

A. Leaving out those six?

Q. Yes.

A. No; I cannot without referring to the records. I would have to go through the individual sheets. I can tell you on those twenty-four.

Q. Take the twenty-four towns in which you said there was only one wholesaler—what was it you said about the twenty-four towns?

A. There is only one wholesaler in the twenty-four towns, and twenty-one of those——

Q. That does not include these six towns, does it?

A. Yes, it includes the six towns, sure, because the six towns only have one wholesaler.

Q. They are eighteen other towns you have not testified about?

A. Yes, sir.

Q. What are those agents in the other eighteen?

A. They are a variety.

Q. How many are boys?

A. Fourteen are boys.

Q. Can you tell me how many are dealers handling newspapers?

A. In the entire territory?

Q. In the twenty-four towns?

A. No; I pay very little attention to the newspaper end.

Q. You are the roadman in that territory?

A. I am.

Q. What is your duty?

A. To get the boys, encourage greater sales, locate new boys and bring to the new boys all the help that is possible for making them better salesmen.

Q. What did you do prior to accepting this position with the Curtis Publishing Company?

A. I was in the office and stationery line.

Q. What education have you?

A. Common school.

Q. And did you immediately go out of this other line into this particular line with the Curtis Publishing Company?

A. I had had Curtis training with the publications as district agent in connection with my business.

Q. How long were you in that?

A. About four years.

Q. You helped train boys who were under you?

A. Yes, sir.

Q. Outside of that, what did you have in the way of training?

A. As a boy worker in the Y. M. C. A. work.

Q. You worked in the Y. M. C. A.?

A. Yes, sir.

Q. And you represented the Y. M. C. A.?

A. Yes, sir.

Q. And worked among the boys?

A. Yes, sir.

Q. What work did you do among the boys?

A. As a substitute secretary, generally working around them and with the Boy Scouts and Boy Clubs.

Q. Did you teach them salesmanship?

A. Not at that time.

Q. Now, are these towns that you have spoken about the only towns in which you are going to change the agent, because of the "Pictorial Review"?

A. I have changed others.

Q. What ones have you changed?

A. I have changed Enid, Oklahoma; I have changed Shawnee, Oklahoma; and I have changed Webb City, Missouri; and I have changed Springfield, Missouri, and Sedalia, Missouri.

Q. They are the only instances?

A. Five cases; yes, sir.

Q. Were they the leading wholesalers in those towns?

A. In some cases and in some cases not.

Q. Was Enid—was the agent at Enid the leading man in that town?

A. The agent at Enid was a woman and she was the only wholesale distributor at that time.

Q. At Shawnee and Springfield——

A. Yes, sir.

Q. And Webb City?

A. Yes, sir.

Q. And Sedalia?

A. He had only the one publication.

Q. That is, yours and the "Pictorial Review"?

A. Yes, sir.

Q. And you required him to give that up?

A. I did not require anything; I just changed the agency.

Q. Does he still handle "Pictorial Review"?

A. He does, as far as I know.

Q. Of course, in these cases where you changed about the "Pictorial Review," you talked to the agent about that situation?

A. No, sir.

Q. You just walked right in and took it out?

A. After he had the thirty days' notice that was all that was required.

Q. The notice came from the office?

A. Yes, sir.

Q. And you did not give him any notice at all?

A. I did not.

Q. Now, does the American News Company do business in your territory?

A. They have no branch. They do business through the Dallas branch and the Southwestern News Company, located at Kansas City.

Q. How do they get their magazines in there?

A. Mail and express.

Q. And you, of course, are always following up your agents?

A. Following up what?

Q. Your rytailers, and, through your agents, see that they are pushing the sales of their magazines?

A. That is what I am hired for and I think I am on the job.

Q. And that is a very important thing, is it not?

A. It certainly is.

Q. And the more closely you keep in touch with these men, the greater your circulation becomes?

A. Yes; or they would not have us in the field.

Q. And if that work was not done, your circulation would not be as great as it is?

A. It would not.

Q. How many master salesmen have there been in your district this last year?

A. A number—I have not the number here.

Q. Cannot you give me an estimate—the number might be a thousand or five hundred?

A. I have not had a thousand, nor five hundred. I might say ten.

Q. You think ten would be a safe estimate?

A. I would not like to say.

Q. Have you had any in Oklahoma City?

A. I did; I think I have had two.

Q. Now, take Joplin?

A. I think one went to report salesman in Joplin, but no master salesman.

Q. Tulsa?

A. None.

Q. Fort Smith?

A. None there—well, I had one master salesman at Fort Smith.

Q. That is, this last year or altogether?

A. Within a year.

Q. Now, prior to that time, were there any in any of those cities?

A. I have had more before than this year. The reason is I have lost more boys because of the other boys taking other positions.

Q. And at Sapulpa, have you had any?

A. No, sir.

Q. And McAlester?

A. No, sir.

Q. Now, in those cities where you have changed the contract, have those contracts been in operation long enough so you can observe how they operate under the contract?

A. Well, I do not know what you mean by that.

Q. Does that come under your notice, to see how they keep the terms of this contract

A. Whatever there is a violation, I hear of it.

Q. What violations have you heard about—you mean you have been operating under the new contract long enough to have heard of violations if any had occurred under the new contract?

A. Yes, sir.

Q. Well, what violations have you heard about?

A. In some cases failure to send in on time sales reports.

Q. You check them up on that?

A. I do.

2461

Q. You are aware that this contract calls for a quota, does it not?

A. It does.

Q. Have there been any cases where a quota has not been lived up to?

A. I do not place a quota in any town that I know I have not an agent that cannot live up to it. I have not had a case where they sell below a quota in a town.

Q. In every case in those thirty-nine cities, they have lived up to this quota?

A. With a safe margain.

Q. And there have been no returns made in such cases?

A. They return—oh, yes, they have returns every week.

Q. Just explain how that is operated in your district?

A. We give unlimited returns. A dealer can send what he does not sell. If he draws a hundred and sells twenty-five, he can return seventy-five; if he draws a thousand he can return a hundred or whatever he wants to.

Q. When you speak of a drawing you are speaking of quotas?

A. No, sir.

Q. I am speaking of quotas; suppose his quota was 100 and he did not sell that quota; what would happen?

A. He would return them.

Q. That has been done in your district, has it?

A. I cannot say that it has.

Q. I am speaking of the actual operation of the contract and not what you think of the contract?

A. That would not come to my attention, because I have nothing to do with that end.

Q. When you speak of returns being made, you are speaking of drawings?

A. I know my agents make returns every week in every case; as to how much I do not know. I have no records of that.

Q. You have not looked into that?

A. No, sir.

Q. Have you particular instructions about this matter of quotas and returns, from the office?

A. It is a matter that is left to us. As far as the quotas are concerned, if a quota is made too high, we would change that quota. Of course, the office gives us what they think is a fair quota for the town. If the field force thinks it is too high or too low, we change it.

Q. In that event, then, you have this authority to work out this quota matter—is that correct?

A. It is.

Q. In the event that the quota would not be lived up to, then what would you do about the returns in that case, if there are any—would you permit them or not?

A. We take full returns, if necessary.

Q. Or would you change the office?

A. It depends on the conditions in that town. If I thought the agent was not giving the circulation warranted, I would change him at once, unless I could show the agent that he could build it up.

Q. In other words, the full object of the plan is to require them to live up to the quota, at least?

A. The quota is a mark to shoot at—it is the target. If he can hit that, we consider that he is doing fair work.

Q. Do you fix that as the high mark or the low mark?

A. It is a safe mark.

Q. It is a safe mark—is that correct?

A. Yes, sir.

Q. You mean safe for the man or for the company?

A. For the man; the company has nothing to be safe on. It is for the man's protection.

Q. Now, have copies been reduced under this new arrangement or not?

A. They have not been changed on the "Post," and the "Journal," in most cases; as to "The Country Gentleman," the quota has been raised inasmuch as it is a growing magazine with us, and the circulation naturally is growing faster than the other two, which are older magazines.

Q. In Sapulpa, and Nowata, and McAlester, and El Reno, Durant, Drumwright, Cushing, Claremore, Blackwell, Bartlesville and Fayetteville—in all those towns your reports show your agents handle certain newspapers.

A. I could not say without referring to the papers. If that is shown on there it is correct.

Q. That is what is shown on your reports.

A. The reports show what is being done at the time the reports were made.

Q. Here they are (handing to witness), if you want to look at them.

A. If you say they are shown there, it is correct.

Q. You had better look at them; you are doing the testifying.

A. Your question was that they handled newspapers besides our magazines?

Q. Yes; did you give me all of the towns where you made changes?

A. No, sir.

Q. Take Shawnee, Oklahoma, for instance——

A. You mean the towns that were handling "Pictorial"?

Q. Yes.

A. Yes; I named all of those.

Q. Now, in Shawnee, had you made any recent changes in the agency, or is that an old agent

A. I changed the agent there.

Q. Why?

A. On account of the "Pictorial Review."

Q. How long has Mrs. Mary Thatcher been your agent in Muskogee?

A. Twelve years, I believe. It has been a long time.

Q. At Lawton, how long have you had this agent there that your report shows?

A. I think about a year and a half. That was changed last Thursday.

Q. Why was that change made?

A. Financial difficulties with reference to remittances.

Q. And at Guthrie?

A. About a year, I think, that boy has been with me.

Q. That is a boy in that case?

A. Yes, sir.

Q. And at Enid?

A. I changed the agent six or seven weeks ago.

Q. Are those the only changes you spoke about here, owing to the "Pictorial Review"?

A. Yes, sir.

Q. Who was the agent in Enid before the Evans Drug Store was put on?

A. Miss Florence Coppage.

Q. She was the only magazine wholesale agent at that time?

A. I believe my reports show that.

Q. At Chickasha, how long has your present agent been operating there?

A. I am the present agent there and have been for seven years. I am the district agent there as well

as Curtis's roadman. That is my home town and I still handle that agency.

Q. You have not been changed?

A. No, sir.

Q. And at Ardmore?

A. I guess that boy has had the agency for two years at Ardmore.

Q. How old is that boy?

A. About sixteen years old.

Q. When was Webb City changed?

A. In January.

Q. Why?

A. Because of the "Pictorial Review."

Q. Who was the agent before Burroughs?

A. The Webb City Book Store.

Q. That was the only agent at that time?

A. I believe the only one; yes.

Q. Now, in Springfield, Missouri, who is your agent?

A. At present Leon H. Ragsdale.

Q. Who was your agent before that

A. McCowan.

Q. How long has Ragsdale been operating?

A. He went on in December, with the last issue.

Q. Why did you change him ?

A. McCowan was handling the "Pictorial Review" under the name of Hoover. Hoover was supposed to have the agency, but McCowan was the active agent.

Q. Where is McCowan now?

A. In Springfield, the last I heard of him.

Q. He is not in business, according to your reports? In Sedalia, how long has your present agent been in existence?

A. I think I changed the agency in December.

Q. You changed there because of the "Pictorial Review"?

A. Yes, sir.

Q. And Scott was the only man there at that time?

A. I would not say whether Scott was the only magazine wholesaler or not.

Q. Your report shows it.

A. Then it was so.

Q. You swear by these reports?

A. To the best of my knowledge and belief, yes, sir.

Q. Take these small towns — Vinita, Stillwater, Pawhuska, Norman, Miami, Hugo, Henryetta, Ada, Nevada, Neosho, Carthage and Clinton—about how large are those towns—just approximate it?

A. Between five and twenty thousand.

Q. Between five and twenty thousand?

A. Yes, sir; some of them will run as low as 3500.

Q. Which ones would run 20,000?

A. Okmulgee——

Q. I did not ask about Okmulgee.

A. Those will run from five to fifteen—Miami is fifteen thousand and Carthage ten thousand.

Q. And your agents are the only ones that handle magazines in those towns—is that correct?

A. You will have to refer to those reports.

Q. Your reports show that.

A. That is correct then.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Assuming that an agent has a quota of one hundred and that he draws one hundred copies and that he sells only fifty. He then has the return privilege on the fifty he does not sell, does he not?

A. Yes, sir.

Q. In other words, the quota has nothing whatever to do with the return privilege?

A. No, sir.

Q. Did you testify you changed the agency at Springfield?

A. That I changed the agency?

Q. Yes.

A. I think that question was asked me.

Q. Did you change the agency?

A. Yes, sir.

Q. Who is the new agent?

A. Leon H. Ragsdale.

Q. Who was the old man?

A. McCowan.

Q. That is where you said McCowan had stopped wholesaling?

A. I did not say that.

Q. Has he stopped?

A. He is out of the magazines business, I think.

Q. When did you appoint Ragsdale?

A. In December.

Q. Did you know after he was appointed whether he was approached to handle "Every Week"?

A. He was.

MR. MILBURN: That is all.

F. J. STUART was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you connected with the Curtis Publishing Company?

A. Yes, sir.

Q. In what capacity?

A. I have supervision of the agencies in North Texas, Central Texas and Eastern Texas.

Q. And how long have you had that position?

A. Altogether four years.

Q. How many towns do you cover?

A. Twenty district agency towns.

Q. Twenty towns and twenty agents?

A. My territory has been changed two or three times in the last few years.

Q. At the time you made your report, you covered twenty towns?

A. Yes, sir.

Q. Are you familiar with the situation with refence to wholesaling magazines?

A. From our standpoint; yes, sir.

Q. You know the agents personally in all of those towns?

A. Yes, sir; I appointed most of them.

Q. Now, in how many of the towns that you investigated and reported on was there only one magazine wholesaler?

A. I believe six.

Q. How many of your twenty agents handle only Curtis magazines—that is, handle no other magazine?

A. Sixteen.

Q. How many of your twenty agents began the magazine business with Curtis magazines?

A. There are twenty agenices.

Q. I say, how many of the twenty agents began the magazine business with the Curtis Publishing Company?

A. Eighteen of them.

Q. How many of the towns where your agents handle other magazines is that agent the only wholesaler?

A. I believe in three of them.

Q. In making this investigation did you confer with the different retailers and wholesalers?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you testified that three towns have wholesalers in them that handle other magazines than yours —is that correct?

A. How is that, again?

Q. There are three towns out of the twenty in which your agents handle other magazines and they are the only agents there—is that correct?

A. Yes, sir.

Q. Will you name those three towns?

A. At the time of this investigation, Paris—I have changed that agent.

MR. SPIESS: What State?

A. Texas; Port Arthur and, I believe, Marshall. I have changed the agency there since.

Q. Marshall?

A. Yes, sir.

Q. How large are those towns?

A. Why, they are all approximately about the same size—fifteen or eighteen thousand.

Q. Now, you have changed Marshall recently—is that correct?

A. Yes, sir.

Q. Why did you make the change there?

A. Because our agent was handling the "Pictorial Review"?

Q. You saw him about it, did you?

A. No; I did not see him about changing it.

Q. You just got instructions to take it away from him—is that correct?

A. Yes, sir.

Q. Now, you got another agent there right away, did you not?

A. I had no trouble; yes, sir.

Q. Now, in Port Arthur?

A. I have not changed Port Arthur.

Q. Had you instructions to change that at the same time or not?

A. No, sir; they are not handling "Pictorial."

Q. How about "Every Week"?

A. They are not handling "Every Week."

Q. Well, we are speaking——

A. When I say not handling "Every Week," I mean wholesale.

Q. We are speaking now of wholesale. Who is your agent in Marshall now?

A. The Fry-Hodge Drug Store.

Q. And what do they do?

A. They are druggists there.

Q. Do they handle newspapers?

A. Yes, sir.

Q. But no magazines?

A. None at wholesale except ours.

Q. Now, will you give me the circulation of your magazines through these three towns—through these agents, I mean?

A. Paris I think is about 350 "Posts"—I am only guessing at these figures.

Q. Just approximate them.

A. Port Arthur is probably 250.

Q. And Marshall?

A. Marshall is probably about the same—those are only approximate figures.

Q. Give us the figures on the "Ladies' Home Journal" in each of those three towns?

A. I could not do any better than give you a guess.

Q. Well, you guessed at the others and you might as well guess at these.

A. Paris something over 200 "Journals"; Port Arthur probably about 200 "Journals," and Marshall about 200.

Q. That covers three cities out of the twenty?

A.. Yes, sir.

Q. Can you approximate the circulation of these two magazines or your three magazines through the majority of these towns?

A. You mean give you the total?

Q. Yes—what percentage?

A. How do you mean percentage?

Q. What percentage of the magazines that are circulated throughout your twenty towns are circulated in Paris, Port Arthur and Marshall?

A. A small percentage, because two of those towns are poor towns—that is, from a reading standpoint.

Q. Well, would it be a third?

A. No; nowhere near it.

Q. Well, give us an idea?

A. I could not do it without figuring.

Q. What large towns are there in your district?

A. Dallas and Houston.

Q. You cover those towns, do you?

A. Yes, sir.

Q. Have you any idea of the extent of your circulation in those two towns?

A. Yes, sir.

Q. Dallas—about how many "Posts" go through your agent there?

A. About forty-six or forty-seven hundred.

Q. How many "Ladies' Home Journals"?

A. About three thousand.

Q. And "Country Gentlemen"?

A. Six hundred.

Q. And the other city—Houston?

A. Approximately the same.

Q. Can you say what percentage of your circulation is through those two towns?

A. Not unless I took a pencil and figured it out.

Q. You cannot approximate it?

A. Not unless I am forced to.

Q. I do not want to force you unless you know. In population how do they compare with the rest of the towns?

A. Why, it depends on——

Q. I am speaking of the ordinary population of the towns?

A. I call them around 100,000, and there are others that call them around 130,000.

Q. What is the population of the other town——

A. About the same; Dallas is supposed to be a little larger.

Q. Would not the population of these two towns be as much as all the others put together?

A. I think it would be fair to say that.

Q. Is it not fair to say that the circulation of your magazines would be——

A. No, sir. The circulation among the smaller towns—among the better towns—is bigger in ratio.

Q. Why is that?

A. They are easier to cover.

Q. It depends on the work, does it not?

A. We have towns of 1200 with a better circulation than in towns of 10,000.

Q. Why is that?

A. A good agent.

Q. He pushes the business?

A. Yes, sir; there are several circumstances controlling that.

Q. Has the American News Company a branch in your territory?

A. Yes, sir.

Q. Do they handle any of the magazines in your territory?

A. Yes, sir.

Q. How many?

A. I do not know; I have not the slightest idea.

Q. Have you any master salesmen in your district here this last year?

A. I have one here who testified—the Tyler boy. I appoint a few. I cannot tell you offhanded. I can look it up and give you the figures this afternoon.

Q. I think you should know that.

A. Well, I will tell you: Lately we have had a lot of special work, this last year, and we have had very little time to devote to promotion work.

Q. By promotion work, what do you mean?

A. Traveling through the towns and looking after the boys and looking after the agents.

Q. Your agent in Dallas is R. G. Gaines, and the agent for the "Pictorial Review" is Milton Gaines?

A. Yes, sir.

Q. Are they related?

A. Father and son.

Q. Do they operate out of the same place?

A. No, sir.

Q. Separate establishments?

A. I want to modify that. Milton Gaines is in France, and his father has been looking after the "Pictorial Review" since he left and we have done nothing about it from a patriotic standpoint.

Q. Your agent in Houston, you have testified here, is the leading wholesaler there—is he not—of magazines?

A. Yes, sir.

Q. He was the only one there until recently—is not that correct?

A. No.

Q. The "Pictorial Review" agent is George Kline——

A. No; Bottler Brothers have had an agency there for the "Literary Digest" since they have had an agency there.

Q. That has been about how long?

A. About a year.

Q. At the time you took on Sautter as your agent, he was the leading man there—he was the only man there?

A. No, sir; he was not; our old agent, Lewis, was the leading wholesaler. We made him a sort of leader.

Q. Who was Lewis?

A. Abe Lewis was a magazine wholesaler.

Q. Your report does not show that.

A. He is not our agent now.

Q. What does he wholesale.

A. He is not a wholesaler there now.

Q. At the time the "Literary Digest" and "Pictorial" put their agent there, Sautter was the leading agent there and the only one?

A. After he took our agency from Lewis; yes, sir.

Q. And he handles newspapers as well?

A. Yes, sir.

Q. Your agent at Beaumont handles newspapers as well as your magazines?

A. Yes, sir.

Q. And at Greenville?

A. Yes, sir.

Q. This promotion work you have talked about is absolutely necessary to keep up your circulation?

A. I consider it so.

Q. You know so from your experience in this work, do you not?

A. I think so—that is, the boy work.

Q. Now, in McKinney, Texas, Gainesville and Greenville and Galveston, your men handle newspapers as well as your magazines, according to these reports?

A. Not at Galveston; the new agent does not handle it. Who have I there?

Q. E. C. Greenwood is your agent at Galveston.

A. He was at that time.

Q. And he was the leading man there in the magazine business?

A. He was at that time.

Q. I notice Mrs. A. Schwab handles "Pictorial Review"?

A. Yes, sir.

Q. Do you know when she took on the "Pictorial Review"?

A. I do not know, but I understand she has been handling it for some time.

Q. Now, Guonod handles the "St. Louis Post-Dispatch"?

A. Yes, sir.

Q. Have you changed the agency in that town?

A. Yes, sir.

Q. Why?

A. Becase he was delivering the "Pictorial Review" for Mrs. Schwab.

Q. She was his sister?

A. Not to my knowledge.

Q. He was handling it under cover, was he not?

A. Evidently, if that was the case.

Q. Why was it necessary to handle it under cover?

A. I cannot tell you.

Q. It was on account of your contract?

A. How was that?

Q. He had not had permission from your company to handle it, had he?

A. No, sir.

Q. How long has Henry Ball been your agent in Sherman?

A. Since last September.

Q. Who was your agent before that time?

A. J. A. Empry.

Q. Why did you change?

A. He died.

Q. That is a very good reason. At Waxahatchie, Harris is your agent. How long has your agent been there?

A. The agent there was there about a month and left town.

Q. Whom did you appoint after that?

A. A boy by the name of Huppy.

Q. Murphy Williams is your agent in Corsicana, Texas?

A. Yes, sir.

Q. How long?

A. Three years.

Q. How long has your agent been appointed in Cleburne?

A. Several months! he is practically a new agent.

Q. In Dennison, your agent has been there how long?

A. The agency there is in the name of the employee; it is now in the name of the employee, J. A. Crumpton. They have had the agency since last fall.

Q. Who was the agent before that?

A. The Walton Drug Store; Mr. Tinsman.

Q. Why did you change?

A. For no reason except Mr. Tinsman did not have time to handle the agency.

Q. Did the "Pictorial Review" try to get your agency in that town?

A. Not to my knowledge.

Q. You testified you changed an agency here because a woman was handling the "Pictorial Review" through your agent?

A. Yes, sir.

Q. Is that your instructions?

A. The way I understood it is if any agents handle "Pictorial" and did not give it up in time, we would let him handle it and get a new agent; if he would not handle it, we were to let him continue handling under our contract.

Q. In the event he was delivering the "Pictorial Review" through someone else, what would you do?

A. We would consider that simply a subterfuge.

Q. And a violation of your contract?

A. Yes, sir.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. And you have had several instances of that, in your district?

A. I would not say several.

Q. What was the total circulation of the "Post" in your district?

A. I cannot give you that figure for this period.

L. G. GRIFFIS, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Griffis, are you connected with the Curtis Publishing Company?

A. Yes, sir.

Q. In what capacity?

A. Superintendent of agencies.

Q. How long have you been superintendent of agencies?

A. About two and a quarter years.

Q. What district do you cover?

A. Georgia, Alabama and Florida.

Q. And that is the district you reported on?

A. Yes, sir.

Q. Are you familiar with the local situation in the different towns you cover?

A. Yes, sir.

Q. And you made an investigation and reported to the Curtis Publishing Company, did you not?

A. Yes, sir.

Q. Which we refer to as the pink and white slips?

A. Yes, sir.

Q. In your investigation, did you interview the agents and dealers, to get at the facts?

A. I interviewed the agents always and the dealers where there was any doubt about the matter.

Q. In how many towns that you covered is there only one wholesaler of magazines?

A. In how many towns that I covered is there only one wholesaler?

Q. Of magazines—just one magazine wholesaler in a town?

A. Sixteen.

Q. How many towns did you cover altogether?

A. Thirty-two.

Q. How many of your agents wholesale only Curtis magazines—that is, wholesale no magazines other than Curtis magazines?

A. Twenty-four.

Q. How many of the thirty-two began their magazine business with the Curtis magazines?

A. All except two—thirty.

Q. And in how many towns where the Curtis agent handles other magazines, is he the only wholesaler?

A. Six.

CROSS-EXAMINATION.

By MR. DALY:

Q. Will you name those six towns?

A. Tallahassee, Ocala, Palatka and Miami in Florida; in Alabama there is Selma, and in Georgia. Atlanta.

Q. You do promotion work?

A. Yes, sir.

Q. That is part of your work?

A. Yes, sir.

Q. You visit the retailers?

A. Yes, sir; sometimes.

Q. How many retailers are there in your district, approximately?

A. I could not tell you.

Q. How many are there in Atlanta?

A. One hundred and twenty-five or 130.

Q. How many in Selma?

A. Four or five.

Q. How many in Birmingham?

A. About sixty-five.

Q. Who is your agent in Birmingham?

A. H. R. DeLaye.

Q. What does he handle?

A. The Munsey group, "Collier's Weekly"—I think that is all. He did handle "Pearson's" at one time.

Q. Did you see the DeLaye's news agency in Birmingham when you were making this investigation?

A. Yes, sir.

Q. Now, as a matter of fact, does he not handle the "Mechanics," "Collier's Weekly," "Cincinnati Inquirer" and the "St. Louis Post-Despatch"?

A. Several newspapers.

Q. "Pearson's Magazine," "New York Times," "Louisville Courier-Journal" and the "Chicago Tribune"?

A. He handles newspapers. I was talking about magazines.

Q. He is a large dealer there?

A. Yes, sir; fairly large.

Q. He is your agent?

A. Yes, sir.

Q. Do you know whether or not he wanted to handle the "Pictorial Review" at any time back?

A. I do not know! I was not in that territory.

Q. When were you in his territory?

A. Since November some time.

Q. Is he still your agent there?

A. Yes, sir.

Q. And you never talked to him on the subject of the "Pictorial Review"?

A. Yes, sir.

Q. What about?

A. About handling it?

Q. Yes.

A. Not specially.

Q. What did he say to you about the "Pictorial Review"?

A. I do not remember just what he said; I could not tell you.

Q. There was a letter put in in New York and the accompanying letter was not. I want to put in the accompanying letter now, if you gentlemen do not object. Let me show you this letter of March 10th, 1917. It is in the record somewhere. I believe it was put in in New York. Will you look at that letter (handing letter to witness)?

A. Yes, sir.

Q. Do you know anything about that letter?

A. No, sir; I was in the West when that was written.

Mr. Daly: On March 6th, 1917, he wrote Mr. MacKinnon with reference to something which

brought this reply, and I would like that letter to go in, if they have no objection to it.

By Mr. Daly:

Q. Now, at Miami, Florida, your agent is Hanson, is he not?

A. Yes, sir.

Q. He handles "Hearst's," "Literary Digest," "Collier's Weekly" and your publications?

A. Yes, sir.

Q. He is the leading wholesaler there and has been for some time?

A. He is now. I don't know how long he has been.

Q. How long have you been in that territory?

A. Six months.

Q. Did you not make any inquiries as to how long he had been your agent, in making this investigation?

A. Yes, sir; that is on the record.

Mr. Milburn: There is no objection to that letter, Mr. Daly.

Mr. Daly: We offer that letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 199," and the same is as follows:)

Commission's Exhibit No. 199.

"DeLaye's News Agency

Birmingham, Ala., March 6, 1917.

Mr. B. A. Mackinnon,
Pictorial Review Co.,
216 West 39th St.,
New York, N. Y.

Dear Mr. Mackinnon:

I want to thank you for the way you received my letter dated February 23rd. I know that you were disappointed in my answer and in me after

the talk I had with you in 1911. No doubt but what you can realize that the situation now and then is not the same. You know that had you offered me your agency at that time or say two or three years after that that I would have been glad to take it and that I would have produced business for you. I like your publication and I must say that I admire the way it has come to the front. I have always given it front row on my retail stand.

Conditions have changed and you know what I refer to when I say it. Other things have happened that makes us all be careful in what we do. I am now a married man and have one child I must protect them and hold tight to what I have. When I was in your office in 1911 I was a single man and I feared nothing because I knew that I could always take care of my own interests. But when you have others to care for you must be careful.

I have requested the local Hearst Agent to write to you, he will do so I am sure. His name is O. D. Ehlers, 1801 First Ave., you can take the matter up with him.

I wish to add that in my opinion things will not be the same as they are as far as agents not being able to take on any business that happens to come along. I believe that there is due to be a big change in the near future and when this happens Mr. Mackinnon I will be glad to put myself back in the same position I was in with you and your company in the past.

You can easily understand my action. I trust that you will think none the less of me for it. I am still the hard working fellow that I use to be and I am producing good business for those I am now representing.

Very truly yours,

H. R. DeLaye."

By Mr. Daly:

Q. In Birmingham, Alabama, DeLaye is the large dealer there?

A. Yes, sir.

Q. Ocala, Florida, your agent handles the Hearst's group, "Collier's" and your magazines?

A. Yes, sir.

Q. And he is the only one there?

A. Yes, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. How many of these men in your district are under the new contract—most of them?

A. I guess about two-thirds of them.

Q. Is DeLaye under the new contract?

A. Yes, sir.

Q. In Palatka, Florida, who is your man there?

A. Charles G. Rottan.

Q. He handles the "Cosmopolitan," "Literary Digest," and is the only wholesaler there. Do you know whether the "Pictorial Review" tried to get him or not?

A. He handles "Pictorial" by retail.

Q. I am speaking of wholesale?

A. I do not know.

Q. In Tallahassee, your agent handles the Hearst group and is the only one there?

A. Yes, sir.

Q. And also handles all the newspapers?

A. Yes, sir; it is a very small town.

Q. You have him under the new contract?

A. No, sir.

Q. Why not?

A. I have not had time to get there.

Q. He has been your agent for some time?

A. He has been an agent for several years; the record shows there.

Q. Does he handle the "Pictorial Review"?

A. At retail; he gets them direct.

Q. In Selma, your man handles the "Literary Digest," "Collier's Weekly," and the Moving Picture group—is that correct?

A. Yes, sir.

Q. And he is the only one there, is not that true?

A. The only wholesaler.

Q. That is what I am speaking about.

A. Yes, sir.

Q. In Columbus, your agent handles newspapers and in Sanford he handles newspapers also—is that correct?

A. Yes, sir.

Q. How long has J. L. White been your agent?

A. The White Company has been agent about eleven years or ten and a half years.

Q. How long has the Sanford man been there?

A. I don't remember; the records show.

Q. He is not a new man?

A. Not very new; no, sir.

Q. Has he been your agent more than a year back?

A. I think so—possibly two or three years.

Q. At Waycross, how long has your man been there?

A. A short while.

Q. Who was the man there before he was appointed?

A. A boy; I did not appoint him. I do not know who he was.

Q. Was it J. W. Thompson?

A. No, sir.

Q. How long has Vinson been at Valdosta?

A. I do not know.

Q. At Petersburg, how long has your agent been there?

A. Possibly a little over a year.

Q. In St. Augustine your agent has been there for how long?

A. Five months.

Q. Who was your agent prior to that time?

A. A boy; there was no agent prior to that time; it was open.

Q. At Pensacola, how long has your agent been there?

A. Just within the year.

Q. Who was agent before that?

A. There was no agency there before that time.

Q. You never had one there?

A. Yes, sir; but there was an intermission of several months.

Q. Bernard Allwell——

A. He was not under contract.

Q. Dd he handle your goods?

A. Yes, sir.

Q. And he handled the Hearst group, Warner group and "Pictorial"?

A. He was not the agent; he just handled it two or three weeks until I could get there. He was not the agent there. He just handled it until I got there.

Q. You were looking around for two or three weeks?

A. No, sir; I have a large territory and I could not get around there any quicker than that.

Q. Who is your agent at Brunswick?

A. H. H. Bryant.

Q. How long has he been your agent?

A. Several years.

Q. Is your agent at Tampa, an old agent?

A. Yes, sir.

Q. In Macon, how long has your man been there?

A. Since December 23rd.

Q. Why did you change him?

A. Because the old agent was handlng "Pictorial Review."

Q. Who was he?

A. McVoy—the McVoy Book & Stationery Store.

Q. And they handled several other magazines?

A. Yes, sir.

Q. And they were the leading people there?

A. They were the only people at that time.

Q. And at Thomasville, how long has your been there?

A. I do not remember; the records show.

Q. He is an old man?

A. I do not remember.

Q. He is not a new man?

A. No, sir; he has not been appointed since I have been there.

Q. In Montgomery, is your man a new man or what?

A. What do you call new?

Q. When was he appointed?

A. About fifteen months before.

Q. Before that, who handled your magazines?

A. Who was the agent there?

Q. Trestler is your man now; May & Green handled your papers?

A. Some years ago; yes.

Q. Before Trestler was appointed?

A. No, sir; several years ago; there was another man there.

Q. What became of him?

A. He was there a week or two ago.

Q. Why did you change?

A. He was not a proper man to handle boys.

Q. May & Green handled it?

A. Yes, sir; some years ago.

Q. They handled "Pictorial Review"?

A. Yes, sir.

Q. Do you know why you changed?

A. They had not been giving proper attention to the agency; they were not getting anywhere near what they should get.

Q. In Jacksonville, how long has your man been with you there?

A. Since the latter part of January or the first part of February.

Q. Who represented you there before that?

A. H. & W. B. Drew Company?

Q. And they handled the Hearst magazines, "Literary Digest" and the "Pictorial Review"?

A. Yes, sir.

Q. And you changed them, of course, because they handled the "Pictorial Review"?

A. Yes. sir.

Q. In Savannah, is your agent there a new man?

A. No, sir.

Q. How long has Kate Conner been your agent there?

A. For ten or fifteen years—ever since there has been an agency there.

MR. DALY: That is all.

B. M. AWALT was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Awalt, are you connected with the Curtis Publishing Company?

A. I am.

Q. How long have you been connected with it?

A. As superintendent, three months.

Q. And how long have you been connected with it in any other capacity?

A. Three months as special representative.

Q. What district do you cover?

A. Well, down in Tennessee, Arkansas, Louisiana and Mississippi.

Q. And have you made an investigation and made reports to the Curtis Publishing Company on the wholesalers' situation in those towns?

A. Yes, I have.

MR. DALY: Do you cover all of Arkansas and Louisiana and Mississippi?

A. No; the investigation I made covered only parts of those States.

By MR. MILBURN:

Q. Your knowledge of that district is confined to the experience you have had there in the last three months?

A. Yes, sir.

Q. In making this investigation, did you confer with the agents and dealers in towns you went to?

A. Yes, sir.

Q. And you made a personal investigation—is that correct?

A. Yes, sir.

Q. And in how many of the towns covered by your investigation is there only one wholesaler?

A. Nine.

Q. And how many of your agents handle only Curtis magazines—I mean by that handle no other magazines?

A. Eight.

Q. How many towns did you cover?

A. Fourteen.

Q. And how many of these fourteen agents began their magazine business with the Curtis magazines?

A. Twelve.

Q. And in how many towns where the Curtis agents handle other magazines is that agent the only wholesaler?

A. Five.

CROSS-EXAMINATION.

By MR. DALY:

Q. Can you name these five towns where they handle other magazines?

A. Yes; Memphis, Jackson, Tennessee; Hot Springs, Arkansas; Lake Charles, Louisiana, and Vicksburg, Mississippi.

Q. Now, in these towns that you have just named, are all of those agents now under the new contract?

A. Only one.

Q. Which one is that?

A. Vicksburg.

Q. Why have you not changed them in the other four? Are you going to change them in the other four?

A. Yes, sir; when I get around to them; that is my understanding.

Q. Those are your instructions?

A. You mean change to the new contract?

Q. From the old contract to the new?

A. Yes, sir.

Q. At Lake Charles, Bullock handles your papers, the "Literary Digest," the Hearst group, the Warner group, "Pictorial Review" and "Photoplay," and is the only wholesaler there—is that correct?

A. Yes, sir.

Q. Did you object to his handling "Pictorial Review"?

A. Yes, sir.

Q. Did you personally object to him?

A. Well, it was more the policy of the company.

Q. How big a place is Lake Charles?

A. About 18,000.

Q. How many retailers are there—do you know?

A. Our magazine is the only one.

Q. Only one retailer of magazines?

A. Retailers—oh, I beg your pardon—about four.

Q. He was the only man there for a long period?

A. The only wholesaler of magazines; yes, sir.

Q. Now, at Vicksburg, your agent handles the Hearst group, "Collier's" and your group and your agent is Clark & Company?

A. Yes, sir.

Q. They are the only people there?

A. Yes, sir; they have been changed since, but they were at that time.

Q. Why did you change Clark & Company's agency?

A. He did not care for the new contract.

Q. He objected to signing it?

A. Yes, sir; he said he was tired of the detail work, anyway. He has a large book store.

Q. In Hot Springs, your agent handles the "Commercial Appeal," the "Arkansas Gazette" and the "Post-Despatch"—papers—and also handles the Curtis group, the Hearst group, "Literary Digest" and "Pictorial Review"—does he handle "Pictorial Review"?

A. I do not know whether he does or not.

Q. Did you object to his handling it?

A. If he did, I would; yes, sir. I do not know that.

Q. Your report shows he does.

A. Well, as I say, I do not know that he gets it. I have not had any particular instructions about that.

Q. Are you going to change him?

A. I could not say; I have had no instructions.

Q. How long have you been in that territory?

A. Three months.

Q. That is the only agency there, is it not? Your report shows that.

A. Yes, sir.

Q. In Memphis, Cohen & Kemp handle the "Literary Digest," "New York Times," "Pictorial," Warner group, Hearst's group and "Pearson's." What facilities has that company for the distribution of magazines?

A. They have none.

Q. They handle all these magazines—how do they get them out to the retailers?

A. They have an expressman come and make deliveries for them.

Q. Wagon?

A. I am not sure whether it is a wagon or an automobile; anyhow, it is their only delivery.

Q. Now, Nathan Cohen is the "Pictorial Review" agent, is he not?

A. Yes, sir.

Q. How long has he been their agent?

A. I do not know.

Q. Did you object to Cohen & Kemp handling "Pictorial Review"?

A. I do not know anything about that; there was a different man there.

Q. They are the leading men in the magazine business?

A. Yes, sir.

Q. And have been for some time back?

A. As far as I know.

Q. They also handle certain newspapers, the "Sunday Post-Despatch," the "Globe-Democrat," the "Republican" and the "New York Times"—is that correct?

A. Yes, sir.

Q. In Jackson, Tennessee, your man handles the

"Colliers's," "Literary Digest," "Good Housekeeping," and is the only man there?

A. Yes, sir.

Q. Is he under the new contract?

A. No, sir.

Q. Have you seen him yet?

A. No, sir; I have not gotten down there yet.

Q. You have not done much promotion work in your district, have you?

A. I have not had much time.

Q. The man before you did that?

A. I succeeded Mr. Green.

Q. That is one of your duties, is it not?

A. Yes, sir.

Q. At Helena, Arkansas, how long has your agent been there?

A. I do not know.

Q. Is he a new man or an old man?

A. He is probably new; he is a boy about ten or eleven years old.

Q. Do you know who handled it before he did?

A. No, sir.

Q. Did you make any inquiries about that?

A. No, sir.

Q. In Baton Rouge, do you know how long your agent has been there?

A. Some few months—less than a year.

Q. Do you know who was your agent before this appointment?

A. Yes, sir; he was a boy.

Q. Just a boy?

A. Yes, sir.

Q. Why did you change—did the boy leave?

A. No; the boy got a position at something else, which took all of his time.

Q. Do you know the circulation of your papers?

A. No, sir.

Q. I mean in your district?

A. No, sir.

Q. Do you know how many retailers there are in your district?

A. No, sir; I do not know.

Q. Can you tell me the percentage, approximately, of the circulation in Memphis, Jackson, Hot Springs and Vicksburg, Mississippi?

A. No, sir.

Q. You have never inquired into that?

A. No, sir.

Q. Now, in Meridian, Mississippi, how long has your agent been there?

A. I do not know.

Q. You do not know whether he is an old or a new man?

A. He is a drug man there; the agency has been changed since that report was made.

Q. You are a new man in your district?

A. Yes, sir.

MR. DALY: That is all.

JOHN H. GREENE was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Greene, were you, for some time, associated with the Curtis Publishing Company?

A. I was; yes, sir.

Q. In what capacity?

A. Superintendent of agencies.

Q. You are not with that company now, I believe?

A. Not since March 1, in regular work.

Q. Did you participate in this investigation and make reports to the company on the wholesale proposition?

A. In fourteen towns.

Q. In what districts are those towns?

A. There are twenty-eight towns in the territory, and I made an investigation in fourteen of them; they cover part of Arkansas, Louisiana and Mississippi.

Q. And in how many of the towns covered by your investigation, is there only one wholesaler of magazines?

A. I believe seven.

Q. And in how many of these fourteen does your agent wholesale only the Curtis publications?

A. Ten.

Q. How many of those agents began the magazine business with the Curtis business?

A. Thirteen out of the fourteen.

Q. In how many of the towns where the Curtis agents handle other magazines is that agent the only wholesaler?

A. Three.

Q. You based your report on a personal investigation?

A. Yes, sir; among the dealers and agents.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. In these fourteen towns, do you know the circulation of your magazines?

A. Approximately; yes, sir.

Q. Give me the three towns in which the agents handle other magazines and your magazines?

A. New Orleans, Louisiana; Gulfport and Biloxi, Mississippi.

Q. Are there not more than three towns? I want to know the towns where your agent handles other magazines?

A. New Orleans, Gulfport and Biloxi.

Q. Are there any others?

A. No, sir.

Q. In New Orleans, who is your agent?

A. M. R. Bankston.

Q. He has been there for some time?

A. Yes, sir.

Q. And he is the only wholesaler in New Orleans?

A. Yes, sir.

Q. Is he under the new contract—do you know?

A. No sir.

Q. It is not your duty to put them under it now—you are a special man for this investigation?

A. I am a special man called here for this investigation; I am no longer with the company.

Q. You knew this field?

A. Yes, sir.

Q. Your report shows that at Little Rock, Arkansas—did you make that investigation?

A. Yes, sir.

Q. (Continuing). —that your agent handles "Collier's" magazine?

A. Yes, sir.

Q. And that ought to be added to the other three towns, should it not? The towns that you gave me?

A. Yes, sir; that is right; it should have been added. I overlooked that.

Q. Now, do you know whether or not Mr. Bankston was asked to handle "Pictorial Review"?

A. I do not know.

Q. Do you know whether or not he was refused permission?

A. By the company?
Q. Yes.
A. No, sir.

MR. DALY: We offer this letter in evidence (exhibiting letter).

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 200," and the same is as follows:

COMMISSION'S EXHIBIT No. 200.

"New Orleans Feb. 24,—17

Pic. Review Co.
216 Wt 39th St.
New York City.

Dear Mr. Mackinson,

I thank you for your kind offer 'of the Pic. Review Agency' and with reluctance I am forced to say I cannot accept.

I am of the opinion that it would strengthen my ability to fight the 'TRUST' N.O.New Co. but as my larger interests are only conserved by an opposite opinion I can but accept the course.

Yours truly,

M. R. BANKSTON."

"COPY

February 28, 1917.

Mr. M. R. Bankston,
430 Common St.,
New Orleans, La.
Dear Sir:

I have yours of the 24th. I am very sorry

that another trust has dictated your policy, so that you can't fight the big trust.

Yours very truly,

M-M Circulation Director."

MR. MILBURN: We have no objection to that.

By MR. DALY:

Q. Did I ask you about the circulation in this district?

A. Yes, sir; I said I could give you an approximate circulation.

Q. Give me the four towns you mentioned—Little Rock, New Orleans, Biloxi and Gulfport?

A. In Little Rock, about 2,600 "Posts."

Q. What percentage of the circulation would these towns cover—these four towns?

A. About twenty-five to thirty per cent.

Q. Of the fourteen towns?

A. Yes, sir.

Q. And Gulfport, your agent handles "Literary Digest," the Hearst group and is the only wholesaler there?

A. I believe that is the way my report is; yes, sir.

Q. He also handles the "New Orleans Times-Picayune," the "Item" and "Daily States." In Biloxi, your agent handles the "New Orleans Times-Picayune," the "Item" and the "States," and also "Literary Digest" and "Collier's" and the Hearst group and is the only wholesaler there?

A. Yes, sir.

Q. In Little Rock, your man handles "Collier's" and your papers?

A. Yes, sir.

Q. Do you know how long he has been in business there?

A. Mr. Scott has been agent from five to eight years, I believe.

Q. He is an old man there?

A. Yes, sir.

Q. He has been your agent for some time?

A. From five to eight years, I think.

Q. How long has your man been the agent in Jackson, Mississippi?

A. When was that report made?

Q. February 20, 1918.

A. The Chambers Office Supply Company?

Q. Yes.

A. Since the latter part of January.

Q. This January?

A. Yes, sir.

Q. Who was the agent before that time?

A. Earl Williams.

Q. What was he?

A. A news dealer.

Q. What did he handle?

A. "Literary Digest," and the Hearst group.

Q. And "pictorial Review"?

A. Yes, sir.

Q. He was the only wholesaler there, was he not, at that time?

A. I believe he was.

Q. When you came?

A. Yes, sir.

Q. He also handled specialties?

A. The "Commercial Appeal" and several others.

Q. In Hattiesburg, Mississippi, how long has your man been there?

A. He was appointed there since January, I believe.

Q. And who was your agent before your present agent?

A. Lee & Duff.

Q. What became of them?

A. They are still there.

Q. Why did you change—they are not on here.

A. They had a canteen in the cantonment there, and, for some reason, they lost their privileges.

Q. What magazines did they handle?

A. Nothing but Curtis.

Q. Do you know whether the "Pictorial Review" ever tried to get them to handle their paper?

A. They have an agency there.

Q. At Shreveport, how long has your man been there?

A. Since January 1 or 2

Q. Who was your agent there before that time?

A. Tom Manuel.

Q. And he handled the Hearst group, and the Warner group and "Literary Digest"?

A. And "Pictorial."

Q. And you changed him because he handled "Pictorial"—is that correct?

A. Yes, sir.

Q. He was the only man there up to that time?

A. Yes, sir.

Q. And in Monroe——

A. Thomas Laye was agent there when that was taken.

Q. How long has he been there, do you know?

A. A little less than a year.

Q. Who handled that before that?

A. A man by the name of Wexler.

Q. The Wexler Cigar Store?

A. Yes, sir.

Q. And they handled the Hearst group, the Warner group, the "Literary Digest" and the "Pictorial Review"?

A. Yes, sir.

Q. And they were the only agents there at that time—the only dealers there?

A. I think so.

Q. And you changed, I presume, because of the "Pictorial Review"?

A. No, sir.

Q. What was the reason?

A. Wexler gave up the agency about a year ago and Thomas Laye took it over; Mr. Wexler thought so much of the training the Curtis people gave, that he advanced the money for the boy to take it up.

Q. It is a good business, too, is it not?

A. Yes, sir; for the boy.

Q. Texarkana—how long has your man been there?

A. He was appointed in January, I believe.

Q. Who was there prior to that time?

A. Mr. Baker.

Q. And he handles the "Literary Digest" and the Warner publications?

A. Yes, sir; and "Pictorial."

Q. Why did you change him?

A. Because he handled the "Pictorial Review."

Q. And he was the only man there, was he not?

A. Yes, sir.

Q. In Alexandria, how long have you had this man there?

A. Mr. Reagan was appointed in November.

Q. And you changed over in what year?

A. Last year—he was appointed in November.

Q. Last year?

A. Yes, sir.

Q. Who was your agent before that time?

A. I believe Mr. Walker; I did not make that change, but I believe Mr. Walker was agent prior to that time.

Q. Who is he?

A. I do not know him.

Q. Is he a dealer?

A. I do not know anything about him.

Q. He does not appear on your list—is Evarts an old man there?

A. Yes, sir.

Q. Did he handle your paper?

A. He retails them, but if he wholesaled them at any time, I do not know it.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. Who is main magazine wholesaler at Little Rock?

A. I believe Mr. North is.

Q. Our agent is Mr. Scott?

A. Yes, sir.

Q. And he handles only Curtis publications and "Collier's", does he not?

A. Yes, sir.

Q. And Mr. North handles the Hearst group, the "Literary Digest," "Pictorial Review" and the Munsey publications—is that correct?

A. Yes, sir.

Q. Pictorial Review"?

A. Yes, sir.

Q. And there are other newspaper wholesalers in Little Rock other than——

A. Mr. Bagley, of the "Arkansas Gazette" and probably one or two more.

Q. Do you know what magazines Mr. Carlovitz of Gulfport handled first?

A. I believe he handled the Curtis publications first.

By Mr. Daly:

Q. Do you know that?

A. According to my report—have you the report there, Mr. Milburn?

Mr. Milburn: I will hand you your report on Gulfport. There is nothing on the record that will show that.

The Witness: No, sir.

By Mr. Daly:

Q. You do not know that then, do you?

A. Just a minute—yes; sir, Mr. Carlovitz began with the Curtis publications.

Q. Do you know what publications Mr. Bankston of New Orleans began with?

A. As a wholesaler of magazines he began with the Curtis magazines.

Q. Do you know what magazines Mr. Baker of Biloxi started with?

A. Curtis.

Q. How did you get that information?

A. Through Mr. Beekler.

Q. Did you ask the man at Gulfport?

A. Yes, sir; Mr. Carlovitz told me that. He said that he bought the news business from some man—

Q. What news business?

A. The paper business, and along with that he got the Curtis agency; naturally, as a magazine wholesaler, he started with the Curtis agency.

Q. Give the facts about the other places you testified about.

A. There are no facts other than I have told you.

Q. No, in the other city.

A. Biloxi?

Q. Yes.

A. Mr. Baker stated he began the wholesale magazine business with the Curtis agency.

Q. Did he take over anybody's business—newspapers?

A. If he did, he did not tell me.

Q. Does he handle newspapers?

A. Yes, sir.

Q. Do you know whether he handled newspapers before he handled Curtis magazines?

A. That I do not know.

Q. You do not know that?

A. If I did, I do not recall at this time.

L. D. GRIFFIS, recalled as a witness, testified further as follows:

RE-DIRECT EXAMINATION (Continued.)

By MR. MILBURN:

Q. Birmingham was in the district investigated by you, was it not?

A. Yes, sir.

Q. And it appears from the record that DeLaye at Birmingham, our district agent, was asked to handle "Pictorial Review" and was refused permission. Do you know whether there was another wholesaler there when he was asked to handle "Pictorial"?

A. Yes, sir.

Q. Another wholesaler of magazines?

A. Yes, sir.

RE-CROSS-EXAMINATION (Continued.)

By MR. DALY:

Q. Who was he?

A. O. D. Ehlers.

Q. What did he handle?

A. The Hearst group, "Literary Digest", "Pictorial Review"—you mean now?

Q. At the time he was asked, did he handle "Pictorial Review"?

A. I do not know when he was asked to handle "Pictorial Review."

Q. Do you know that he was asked?

A. I am not familiar with the inside history of that.

By Mr. Milburn:

Q. It appears from the record he was asked early in the year. This other man had been in the business there for several years as a magazine wholesaler?

A. Several years; yes, sir.

Q. At the date you made your investigation in Birmingham, what magazines was Mr. Ehlers handling?

A. The Hearst group, the "Literary Digest," the Warner publications, and a couple of moving picture magazines.

Q. Was he handling "Pictorial" then?

A. The "Pictorial Review"; yes, sir.

Q. Do you know how long he had been handling the Hearst group?

A. Well, I have been in Birmingham about four years, and he was handling "Hearst's" then.

Q. Afterwards when these other magazines became independent, he took them on as they came along?

A. Yes, sir; he must have.

Q. He was engaged in the business of wholesaling magazines prior to March 6, 1917, when the agency was offered to DeLaye?

A. Yes, sir.

Q. You have known this man about four years?

A. I have not known him intimately.

Q. You have known about his business?

A. I knew he was agent for the Hearst magazines.

Q. You know DeLaye has been there for some time?

A. Yes, sir.

Q. As a matter of fact, DeLaye was the leading wholesaler?

A. Was or is?

Q. Was, until recently?

A. Well, I do not know hardly how they figure. The Hearst magazine volume is a great deal larger.

By Mr. Daly:

Q. What equipment did this man have to handle magazines?

A. I could not tell you.

Q. Do you know what DeLaye has?

A. What he has now?

Q. Yes.

A. He has a Ford.

Q. As a matter of fact, DeLaye is a desirable man?

A. He is the average good agent.

Q. He is the best man?

A. There is no best man.

Q. He covers the retailers?

A. Very good.

Q. And sees your magazines are properly distributed?

A. Yes, sir.

Q. Now, this other man works for a newspaper, does he not?

A. Ehlers?

Q. Yes; who handles the Hearst group?

A. I do not know.

Q. As a matter of fact, is he not a carrier for the "Birmingham News"?

A. I do not know that.

Q. Do you know when Warner's, "Literary Digest," Motion Pictures" and "Pictorial" went independent?

A. You mean went independent all over the country?

Q. Yes.

A. Last year in the spring—a great many of them.

J. T. TOLER, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Atlanta, Georgia.

Q. And what is your occupation?

A. Circulation Manager of the "Atlanta Constitution."

Q. What is the circulation, approximately, of the "Atlanta Constitution"?

MR. DALY: I object to that. I cannot see what the circulation of a newspaper has got to do with this inquiry. We are getting too far over into the newspaper question entirely, and I object to that.

MR. WELCH: Mr. Examiner, the other day I examined Mr. Mathews, and one of the first questions Mr. Daly asked was about the circulation of his newspaper. If it can be asked on cross-examination, I think it can be asked on direct examination.

MR. DALY: If I asked the question, let it go.

MR. WELCH: I should like to have a ruling on that.

EXAMINER MOORE: Let him answer.

MR. DALY: If we are going into this newspaper question entirely, we will have to cover the country again.

By MR. WELCH:

Q. What is the circulation, approximately, of the "Atlanta Constitution"?

A. The daily is in excess of 58,000 and the Sundays about 55,000.

Q. How long have you been engaged in that business, connected with newspapers, in a circulating capacity?

A. My first position as circulation manager was away back in 1891.

Q. What was that paper?

A. It was first known as the "Appeal Avalanche," Memphis, Tennessee, and later was purchased by the "Commercial," and is now known as the "Memphis Commercial Appeal."

Q. State, Mr. Toler, what newspapers you have been connected with as circulation manager, from that time up to your going to the "Atlanta Constitution"—you need not give the dates.

A. Well, in addition to what I have already stated, following the "Commercial Appeal," of Memphis, I went from there to the "Nashville American," at Nashville, Tennessee; the "St. Louis Star," St. Louis—I was assistant circulation manager of the "Chicago Examiner" for about one year and then the "Memphis News-Scimitar"; the "Birmingham News" and the "Atlanta Constitution." I was business manager of the "New Orleans Times Democrat" one year.

Q. As I understand it, you left the "Atlanta Constitution"——

A. Yes, sir; in 1911.

Q. And became business manager of the "New Orleans Times-Democrat" in 1913?

A. Yes, sir.

Q. And in 1914 you went back to the "Atlanta Constitution" as circulation manager?

A. Yes, sir.

Q. And you are with them now?

A. Yes, sir.

Q. Will you state in what manner the "Atlanta Constitution" is distributed—what is your method of distribution—just briefly?

A. Well, in what regard?

Q. As to whether you have joint agencies with any other newspapers or whether you have exclusive agencies?

A. We try to have our own independent agencies, both city and country.

MR. DALY: I want that to go in over my objection. In the hearing in Boston or New York, learned counsel on the other side endeavored to bring out that there were exclusive contracts made by certain publishers—magazine publishers—and that question was objected to and ruled out. If he can show what relevancy this exclusive agency proposition has to this case, I will withdraw my objection. If I can understand that, I will withdraw the objection.

MR. WELCH: I think I can make you understand, but I want to say I do not understand your objection. Mr. Annenberg was put upon the stand in Chicago and testified in Chicago the newspapers had combined upon a joint agency and did not have exclusive agencies. Now, there is the testimony. Are we restricted in this case to Chicago? I put witnesses on the stand to show that at other points in the country that procedure of

distribution does not prevail. I cannot see the basis of any objection. I am puzzled how to answer. If you can prove in Chicago they do have joint agencies, cannot I prove outside of Chicago they have no joint agencies?

MR. DALY: If he wants to confine himself to that, I am satisfied. Now, in New York, a representative of the "World" was put on the stand and the last question asked that representative was—he was brought down to testify to the point that they distributed through independent means and through the American News Company—the last question was, was that method of distribution an efficient distribution, and it went in to a certain extent over my objection, and I ask now that that last part be stricken out—as to the efficiency of the distribution of the American News Company insofar as newspapers are concerned. The efficient distribution of newspapers has nothing to do with the efficient distribution of magazines. These respondents are charged only in this complaint, in every count of the complaint—there is nothing in there except as to the distribution of magazines and periodicals. Now, if he wants to confine his questions to showing what he states in that respect, I am satisfied.

MR. WELCH: The only reason the question was asked about the news company in New York was that Mr. Daly went into it on cross-examination. I asked the question on re-direct-examination whether it was satisfactory.

EXAMINER MOORE: Please read the question.

(The stenographer repeated the question.)

MR. DALY: I withdraw my objection if he is to confine himself to that part of it. I withdraw my application to strike out that testimony. I

have no objection to that. I withdraw my objection to the question.

MR. WELCH: There is not a word about the American News Company in this testimony, and yet every time this matter is brought up, Mr. Daly objects.

MR. DALY: It was not my purpose in the Chicago testimony to show anything except when these agencies were established the Curtis Company took them on. I do not care about the other part at all.

EXAMINER MOORE: You can answer.

THE WITNESS: Please read the question.

(The stenographer repeated the question.)

THE WITNESS: We try to have, as far as possible, in both city and country, our independent organization.

By MR. WELCH:

Q. As I understand it, you have no arrangement of any sort with any other newspapers to use a joint dealer as your distributor?

A. We do not.

Q. How many newspapers are there in Atlanta?

A. Three.

Q. Are you a member of the International Circulation Managers' Association?

A. Yes, sir.

Q. Are you a director?

A. Yes, sir.

Q. And have you attended a number of their conventions?

A. About seven or eight.

Q. At those conventions, are the circulation methods of newspapers discussed?

A. Yes, sir; that is the purpose of the organization.

Q. And by reason of your experience or connection with other newspapers, as circulation manager, over the many years you have testified about, you are generally familiar with the conditions relating to the distribution of newspapers throughout the country, are you not, in a general way?

A. Yes, sir; I should think so.

Q. Do you know of the situation in Chicago with respect to the distribution of Chicago newspapers testified to in this case?

A. That arrangement was made after I left.

Q. Just what it was—do you know?

A. I know only by general information and not personal experience.

Q. You do know that that situation was that the Chicago newspapers, sometime around 1906, did, for certain reasons, unite on one dealer?

A. Yes, sir.

Q. Do you know of any locality other than that where that same situation exists as to the use of joint agencies by newspapers in their distribution?

A. I do not.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, this International Association that you speak of—of what is that composed?

A. Circulation managers of various papers.

Q. What various papers?

A. Daily papers, and also there are quite a number of magazine men connected with it. At the present time, Mr. Scholz, who is with the Crowell Publishing Company, is a member and takes a very important part in it.

Q. What newspapers are represented?

A. If you will confine me to the exact names I do

not know that I could tell you all, but I could tell you a few.

Q. Give me what you recall.

A. The "St. Louis Globe Democrat," the "Republic" and the "Post Dispatch"; the "New York World," the "Boston Globe"—I believe all the daily papers of Philadelphia, and especially the morning papers, the Chicago papers; the Chicago papers were represented, but I understand now that one or two have retired, but the "Chicago American" is still represented.

Q. Did you ever see any of the representatives of the "New York World" there?

A. Yes, sir.

Q. When?

A. In Atlanta, in October.

Q. Of last year?

A. Yes, sir.

Q. The circulation manager?

A. Yes, sir.

Q. Who.

A. Mr. McIrner.

Q. What Chicago papers were represented?

A. None of the Chicago papers were there, but there was a paper read from O. O. Scatterwood.

MR. DALY: That is all.

P. E. SCHMALZ, was called as a witness on behalf of the respondents, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Dallas, Texas.

Q. What is your occupation?

A. Assistant circulation manager, "Times-Herald," published in Dallas.

Q. How many newspapers are there in Dallas?

A. Four.

Q. Generally, through what territory is your newspaper circulated—in what radius of Dallas?

A. Within a radius of 100 miles of Dallas.

Q. Do you distribute your newspapers in that territory through separate dealers as distinguished from joint dealers, with other newspapers?

A. We have our own exclusive agencies.

Q. Then I assume you have no arrangement with any other newspaper in distributing your papers to dealers?

A. No, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. You circulate your newspapers in chiefly small towns?

A. Yes, sir.

Q. Would any other plan be practicable?

A. We have not found any.

Q. You have your own representatives—is that correct?

A. Yes, sir.

Q. Do you pay them a salary?

A. No, sir; we sell them the papers direct and they resell them.

Q. They make their profit in that way—is that correct?

A. Yes, sir.

Q. How do you select those agents?

A. Well, we have traveling men canvass the towns

and pick out the most suitable men or man—the man with the largest acquaintance.

Q. You try to select the best man?

A. Yes, sir.

Q. And keep in touch with him to see his circulation is pushed?

A. Yes, sir; our traveling men make the towns and furnish us reports weekly.

Q. Do you take on magazine dealers?

By Mr. Welch: What do you mean by "he takes on"?

Mr. Daly: Does he take on agents for his company that handle magazines.

The Witness: Some handle magazines; yes, sir.

By Mr. Daly:

Q. Does that hamper the circulation of your paper or help it?

A. Well, I do not know that it would affect our circulation one way or the other.

Q. Why do you take them on?

A. We do not have any objection to their handling any publications except those which are direct competitors.

Q. As a matter of fact, do you not take on magazine men wherever you can get them?

A. No, sir; we have no preference in that at all. We would just as soon have him handle some other business just so he pushes our paper.

Q. If a man has a magazine business with equipment, could he not handle your business more satisfactorily?

A. In some cases, and in some cases not. We would prefer he handle our papers alone.

Q. In what towns have you wholesale magazine dealers as your agents—name some.

A. I cannot give you the exact dealers that handle magazines, but we have agents, as I say, all around within a radius of 100 miles.

Q. I am confining my talk to you to these towns that handle magazines.

A. Practically all towns have magazines, but they are not necessarily our agents.

Q. I am speaking of the dealers in magazines that handle your papers—how many are there?

A. There are very few of our agents who handle magazines.

Q. How many are there—can you not tell?

A. No, sir; because we keep no record of that at all; we are not interested in that part of it.

Q. Is not equipment a necessary thing in the distribution of newspapers?

A. Their equipment as a magazine dealer would not be necessary; no, sir.

Q. How would these papers be gotten out to the retailers?

A. They use different means of conveyance—automobiles, horses——

Q. A man who had those things would be much more capable than a man who did not.

A. If his business required it——

Q. It costs money to buy them and everybody cannot do it, can they?

A. No, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. These agents that Mr. Daly has been asking you about are not employes of yours on a salary, are they?

A. No, sir.

Q. You were asked about small towns. You said your papers were distributed mostly in small towns?

A. Yes, sir.

Q. The other newspapers are distributed in those small towns?

A. Yes, sir.

Q. And you stated, I think, you found it more practicable to have exclusive agents of your own rather than a joint agency with another paper?

A. Yes, sir.

J. T. TOLER was recalled as a witness and testified further as follows:

By MR. DALY:

Q. You stated you had these exclusive agents. I want to ask you why you want exclusive agents?

A. Well, we go on the theory that we want our own exclusive organization because an exclusive, independent organization will work harder to further the interests of our paper than if we had joint agencies, under the theory that no person can serve two masters and love them both.

Q. Then it is a matter of competition, is it not?

A. Well——

Q. Keeping out of competition—is not that the case?

A. These other papers can do likewise.

Q. I am not asking you that, but is not that one of the reasons that enter into consideration?

A. I do not know whether it is to keep down competition. We know no more than this, that a person who is working exclusively for us is likely to give us

more circulation in a town than if he is handling the other local papers. There are instances where we make exceptions to that rule, but only——

Q. What instances are those?

A. Where we can be benefited by it.

Q. That is not an answer to my question. Where do you make that distinction?

A. Macon, Georgia, and Columbus, Georgia.

Q. Why do you do the other thing there?

A. We feel we can get better representation by allowing another paper's representative to handle our paper.

Q. In those cases, what other papers do they handle—all of the papers?

A. All they can get.

Q. They have a good organization, do they?

A. Well, it is——

Q. You took them because they are the best men—is not that the fact?

A. It is not the best we could get, but it is the best we could get without spending a lot of money for our representation.

MR. DALY: That is all.

MR. WELCH: That is all we have here, Mr. Examiner.

EXAMINER MOORE: Very well, we will take an adjournment now of this proceeding until Friday, May 17, 1918, at 10 o'clock A. M., in Denver, Colorado.

(Whereupon, at 1.20 o'clock P. M., an adjournment was taken until Friday, May 17, 1918, at 10 o'clock A. M., at Denver, Colorado.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
The Curtis Publishing Company.
} Docket No. 15.

New Post Office Building,
Denver, Colorado,
Friday, May 17, 1918.

The above entitled matter came on for hearing further at 10 o'clock A. M., pursuant to adjournment.

Before: EXAMINER CHARLES S. MOORE.

Appearances: As heretofore noted.

FERDINAND J. SYVERTSON, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Syvertson, where do you live?

A. San Diego, California.

Q. Are you the Curtis District Agent there?

A. I am.

Q. How long have you been there?

A. Three years—a little over three years.

Q. And you have been district agent all of that time?

A. Yes, sir.

Q. Were you connected with the Curtis Publishing Company anywhere before that?

A. I was.

Q. Whereabouts?

A. At Eureka, California.

Q. You were agent there?

A. I was district agent there; yes, sir.

Q. Did you move for your own personal convenience, or were you requested to move?

A. I did; I wanted a change of climate.

Q. You applied for the agency at San Diego?

A. I did.

Q. What do you whoelsale in the way of magazines?

A. The Curtis publications only.

Q. Have you ever wholesaled any other magazines?

A. I never have.

Q. And you have no newspapers?

A. None.

Q. You are not engaged in any other business—is that correct?

A. Yes, sir.

Q. And do you distribute the magazines to dealers?

A. I do.

Q. How do you do that?

A. By automobile.

Q. And have you a list of boys?

A. I have; yes, sir.

Q. How many?

A. The last time I counted the names on my report, I believe there were eighty-two.

Q. How many were there when you began your San Diego agency?

A. I do not exactly remember how many. I think——

Q. Just approximately.

A. About sixty.

Q. Were these boys turned over to you when you took the agency at San Diego?

A. They were; yes, sir.

Q. And have you gotten others?

A. Various others; yes, sir. We have advertised for some. I frequently hand each one of my boys my business card and ask him to give that to a chum or friend who would like to earn some money and get into the business and send them in, and in that way I secured some boys.

Q. And has the Curtis Publishing Company cooperated with you in maintaining the staff of boys?

A. They have.

Q. Who was the superintendent there—the Curtis man?

A. Mr. Hartley Green is the traveling representative. He visits my district about every two months.

Q. What have you done by way of educating or instructing these boys in the sale of your magazines, if anything?

A. When a boy first begins the selling of magazines, I try to impress upon him that it is necessary for him to be acquainted with the article he is selling, and I usually get a copy of one of the magazines and call his attention to the cover—which is quite attractive as a rule—and go through and count how many stories there are in them, and impress on him perhaps there are a dozen or more and that each one of those stories has been written by a man of unusual ability, and any one of them would be worth the price of the magazine, five cents, whereas he is selling the entire magazine altogether, with those dozen stories, together with the editorials, for five cents, and that he is doing the man to whom he is selling the magazine a kindness or a favor, and I lead the boys to realize that they have an article of quality, and that they are not peddling something, and if they meet a man who is not acquainted with the magazine they are selling, that it is necessary for the boys to explain the qualities of the magazine.

Q. In addition to that individual work you have meetings and co-operate with the schools and Y. M. C. A. there?

A. I do; I have done that for at least two years. We have held meetings not less than once a month with the boys, and for the balance of the time nearly as often. At these meetings we would teach the boys how to sell the magazines and how to increase their sales, and if, during the weeks between meetings, boys come to me and relate little experience that I think would be of assistance to other boys, I have them relate those experiences when all of the boys are gathered together at the meetings. For instance, one little fellow came in and said, "Mr. Syvertson, I got on a street car to go home, after receiving my 'Journals,' and after entering the car I noticed that there were several ladies there and I removed my hat and took one of the 'Journals' and showed it to the first lady from the door there and asked her if she would like one of the 'Journals,' and she smiled and said yes, she would like one." He stated that she handed him fifteen cents, and he proceeded to the next lady and she also bought one, and he said he sold from seven to nine ladies in that car, and then he returned to the point at which he entered the car and took his seat, and the lady to whom he had sold the first copy said, "Do you know why I bought that 'Journal' from you, young man"? He said, "I suppose you liked the magazine," and she said, "Partly that, but I liked more the gentlemanly way in which you entered the car; you removed your hat smilingly and presented your magazine——"

Mr. Daly: I do not like to object, but if we are going into the experiences of these boys on street cars in selling papers, I think we are getting entirely too far afield; we will agree to all these things that they do.

THE WITNESS: I thought it was educational and that was the reason I was replying that way.

MR. DALY: We agree to all that you have said.

By MR. MILBURN:

Q. Do these boys have permanent customers?

A. They do; yes, sir.

Q. And they deliver throughout the residential districts of your town?

A. Yes, sir.

Q. They are schoolboys——

A. Yes, sir; all schoolboys.

Q. Have you any members of the Curtis League?

A. Several members, yes, sir. I have three boys who have been promoted to expert and four who are members of the league; two of the four were probably promoted at the May 4th meeting of the officials at Philadelphia, which would give me five experts and two additional league members.

Q. And have these boys received anything by way of bonuses for added sales of papers and general efficiency?

A. They have, from time to time, received—some of them have received quite substantial prizes for efforts. One boy, for instance, received $150 and another boy received a check for $75, and several of them smaller amounts.

Q. And have you, in like manner, received certain sums in the way of extra compensation?

A. Yes, sir; I have received bonuses and special rewards for increasing the sales force.

Q. So that is a material consideration in your business?

A. I think so.

Q. Who is the main magazine wholesaler at San Diego?

A. I presume the American News Company

branch would be considered the leading wholesaler. There are three independent distributors, in addition to the American News Company branch.

Q. Who are they?

A. Mr. William Hopkins represents the Hearst magazines, Louis Schneider represents the "Munsey," "Collier's," "Pearson's," and several others. By the way, Mr. Hopkins also represents the "Literary Digest"—I believe that is all—in addition to "Hearst's."

Q. So Mr. Schneider, taking the magazines numerically, has a larger and more general wholesale business than you?

A. Yes; he has.

Q. You are confined just to the Curtis magazines?

A. Yes; and he has several smaller magazines, but I could not name them at this time.

Q. Have you been asked to handle other magazines?

A. I have.

Q. From time to time?

A. Yes, sir; I have.

Q. And you have never taken on any, as I understand it?

A. No, sir.

Q. Why was that?

A. I was not enjoying the best of health, and I thought I had enough to attend to.

Q. What is the population of San Diego?

A. The Federal estimate, I believe, is 53,000, but we have a large tourist population which would probably bring it between eighty and ninety thousand.

Q. And these tourists come at one season of the year?

A. No, sir; we have a twelve-months-of-the-year tourist season.

Q. I was wondering whether that was a fluctuating

tourist season, or whether they come and go each winter or spring.

A. No, sir; we have our winter and summer tourists.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is your circulation of the "Post"?

A. At the present time I am selling a little more than 4500.

Q. And of the "Journal"?

A. A little more than 2500.

Q. Are you engaged in any other business there?

A. I am not; no, sir.

Q. How much time do you devote to the sale of your Curtis publications during the month?

A. That would be a little difficult to answer because I devote an hour or two to that business and perhaps the rest of the day I would be at leisure.

Q. Do you devote an hour or two every day?

A. Yes, sir; I do. Some days I will devote the entire day. Wednesdays and Thursdays I am always quite busy all day long.

Q. How often do you see the boys?

A. I see most of the boys every Thursday.

Q. That is all—just once a week?

A. Some of them I see oftener, but it is exceptional, I think, if I see them more than once a week. Some of them I do not see every week.

Q. Did you ever see one of these boys selling a "Post" to a prospective customer?

A. I have; yes, sir.

Q. Where have you seen them sell them?

A. In San Diego.

Q. On the street or in an office?

A. Both; I have gone out with them.

Q. I mean, have you casually come up and seen them?

A. I have; yes, sir.

Q. Have you seen them explaining the contents of the magazine to a prospective customer?

A. Yes, sir; I have seen them call attention to special articles in them.

Q. Do you see that often?

A. I cannot say that I see it often, because I have not watched them close enough for that.

Q. How many of your boys sell "Posts" on the street?

A. Six or eight, probably.

Q. Out of the eighty-two?

A. Yes, sir; but for a very short time. I do not encourage the downtown street sales by boys.

Q. As a matter of fact, do not most of these boys sell "The Saturday Evening Post" and "The Ladies' Home Journal" to their regular customers?

A. I do not understand your question.

Q. Do not these boys, as a matter of fact, sell these "Posts" and "Journals" to their steady customers?

A. Yes, sir; they do.

Q. That being the case, it would not be necessary to speak of the contents of the magazines in general, would it?

A. It is necessary to get additional customers to take the place of those who move away.

Q. I understand that, but——

A. And to fill up occasional losses in their list.

Q. When they get a customer, it is not for a single week, is it?

A. Some are, and some are not.

Q. Most of them are week-to-week customers?

A. Yes, sir.

Q. And the contents of the magazines differ from week to week?

A. Yes, sir.

Q. You said you have received bonuses and special rewards for increasing the sales force?

A. I have.

Q. What did you mean by that?

A. Frequently the company will send me a letter urging me to secure some additional salesboys, and they will offer as an inducement for special effort on my part a dollar per boy for all that may make a given sales by a given date.

Q. That would not be for increasing the sales force, would it?

A. I believe so.

Q. You would not get that dollar unless the boy sold so many copies, would you?

A. No; he would not be considered a salesman until he had made sales.

Q. Then, you really got that money after a boy had sold so many copies—is not that true?

A. Yes, sir.

Q. That would not be for increasing the sales force?

A. I would not have earned the dollar unless I had induced the boy to enter my sales force and that boy had sold magazines.

Q. You could not have gotten the dollar unless he had sold so many copies?

A. That is also true; yes, sir.

Q. All these boys do not sell that number of copies so that you will get this dollar?

A. No, sir; not within the specifiied time, but I consider them a valuable addition to my sales force, even though they do not get the number of sales necessary to enable me to obtain that dollar.

Q. Sometimes you increase your sales force and you do not get any remuneration?

A. Yes, sir; every boy means a remuneration to me.

Q. But that is not a bonus?

A. No, sir.

Q. That is not a special reward, is it—that is simply your profit on the sale of your magazines—is not that so?

A. Yes, sir; but I do get an increase in my profits through securing the additoinal boys, even though I do not get the dollar on any special one.

Q. I am speaking of special rewards or bonuses that you get from increasing your sales force; you do not get the special reward unless the boy sells so many copies?

A. That is true of that particular boy.

Q. Is it so as to other boys—do you ever get any money from the Curtis Publishing Company for simply going out and getting a boy?

A. In one sense, yes, and in another sense, no.

Q. In what sense do you?

A. If you will allow me to explain it, I will cite the most recent occurrence.

Q. Certainly.

A. The company wrote me they wanted me to increase my sales force and they would do certain things for that special effort. I proceeded to secure additional boys and I wrote to the company giving them a list of the boys I had added to the sales force, and they sent me a check for ten dollars, which represented ten new boys I had added to the force. But I had added several additional boys in addition to that ten which had not made the sales requirements which would entitle me to an additional dollar.

Q. When was this?

A. Within the last six weeks.

Q. Prior to that time, did they ever send you a check for obtaining boys?

A. Yes, sir.

Q. What instance was that?

A. I do not remember the date of this, sir, if that is what you seek.

Q. I am speaking of when you went out and got a boy and the Curtis Company gave you money for getting that boy before the boy did anything.

A. They do not do that.

Q. This ten dollars you got within the last six weeks was after the boys had sold a certain number of copies?

A. Yes, sir; there would be no incentive for them to pay me a bonus for getting boys unless I had established the fact the boys were of some service to the company.

Q. Now, you say you have five experts and two additional league members. What period of time does that cover?

A. Three years.

Q. Have you any master salesmen?

A. I have not.

Q. How often do you——

A. I have one boy who is making the sales requirements for master salesman, but he has not been selling long enough to entitle him to that.

Q. How long does he have to sell?

A. Two years, I believe.

Q. How long do these boys, as a rule, stay with you?

A. Many boys remain a comparatively short time, probably shorter in my district by reason of the large temporary population. People will come there to spend a few months and their sons will get busy selling Curtis publications, and then when the parents go back to their homes or move elsewhere we lost that salesboy from our force; but I have at least one boy who has sold for at least two years prior to my taking the

agency at San Diego, and he is still selling, and there are several boys on my list of salesmen who have been there a couple of years.

Q. Well, it is a come-and-go proposition?

A. That is largely so; yes, sir.

Q. Do you sell these magazines outright to the boys?

A. I do, with the privilege of returning unsold copies.

Q. But they buy them from you, do they not?

A. Yes, sir; they do.

Q. Are you under the new contract?

A. I am.

Q. Has your bond been increased?

A. Yes, sir.

Q. Does the increase cover the amount of risk that the Curtis Publishing Company takes?

A. I believe so.

Q. Did the "Pictorial Review" ever approach you to handle their magazine?

A. They never did; no, sir.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. These boys get their own customers, do they not?

A. Yes, sir.

Q. It may be necessary for them to see a prospective customer on several occasions to get them and hold them?

A. Frequently that is the case.

Q. Do your boys ever handle any other publications at all?

A. I have five or six boys who sometimes sell newspapers, but not magazines.

Q. The rest are entirely confined to Curtis work?
A. Yes, sir.

MR. MILBURN: That is all.

A. As to how I secure boys, I would like to make one additional statement if you will hear it. The Curtis Company displays a film known as the Thomas Jefferson-Morgan film; it recites how a mischievious boy—some people might call him an unruly boy—is led into selling the Curtis publications and becomes a good salesman and a good pupil at school, and graduating as a master salesman and securing a good position. I secured one of my best boys through the display of that film. We showed the film at the Garfield School, and the principal of that school, Mr. Welber, talked for about thirty minutes, in which he said many complimentary things about the Curtis Company's method of training boys, and the following day several boys came to my office and inquired for details in regard to selling Curtis publications, and one boy who applied to me after that is still selling, and he is the one whom I just mentioned as making the required sales for master salesman, and if he had been in the service long enough he would be master salesman. Mr. Welber liked that film so well he requested me to have the company display it again. The night we showed it, it unforunately rained, but in spite of the rain the school room was comparatively filled, and he stated he had secured numerous requests from parents, to secure the display of tlre film again, and I have tried to——

MR. SPIESS: Did you charge any admission?

THE WITNESS: No, sir. We also displayed the film in Coronado, and in each case the principal of the school spoke for about thirty minutes, in which they praised the methods of the Curtis Company in training boys, and I remember Mr. Welber emphasized the fact that the training the boys re-

ceive was of greater value to them than the monetary consideration—the money, in dollars and dimes, the boys made, although welcome, were not of as great value as the experience and business training the boys received.

MR. SPIESS: It also helps greatly to sell the magazines, does it not?

THE WITNESS: It does; yes, sir. I consider when I assist a boy to become a good salesman of magazines, I am also assisting him to be a good salesman of any other commodity when he reaches manhood and goes into business as a man.

EXAMINER MOORE: Anything further?

MR. MILBURN: That is all.

EDGAR P. TRELOAR, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Boise, Idaho.

Q. Are you the Curtis district agent there?

A. I am.

Q. How long have you been agent?

A. About nine years.

Q. Have you any other business?

A. I have.

Q. What is that?

A. Cigars and tobacco.

Q. What magazines do you wholesale?

A. Curtis publications.

Q. Is that all?

A. Yes, sir; that is all.

Q. Do you wholesale any newspapers?

A. No.

Q. What other magazine wholesalers are there i Boise?

A. One more, I believe—wholesaler.

Q. Who is that?

A. A. E. Tillitson.

Q. Do you know what he wholesales?

A. I believe he wholesales most all of the magazines.

Q. Do you distribute your magazines to the dealers in that city?

A. I do.

Q. And also sell through boys?

A. And also supply the boys.

Q. How many boys have you?

A. Forty-two.

Q. What do they handle?

A. "Post," "Country Gentleman" and "Ladies' Home Journal."

Q. Anything else at all?

A. Nothing else.

Q. In getting this list of boys and maintaining it, has the Curtis Company co-operated with you?

A. They have.

Q. In what way?

A. Oh, in premiums and in inducements to the boys, and things like that.

Q. Have they aided you in getting them?

A. Yes, sir; they aided in getting them by advertising and different ways.

Q. And the efforts of the road superintendent are at your disposal, are they not?

A. Yes, sir.

Q. Have you ever held meetings with these boys and taken any personal pains with educating them and instructing them in salesmanship?

A. Yes, sir; we have weekly meetings and Ten

Clubs, and discuss the merits of the papers and ways of selling, etc.

Q. You handle no other magazines?

A. No, sir.

Q. Have you ever been asked since to handle any others?

A. I have.

Q. What ones?

A. "Hearst's," "Pictorial Review"——

Q. And you have not done so?

A. No, sir; I have been asked to handle all other magazines.

Q. Why did you not take them up?

A. I claimed that I had all I wanted to attend to, to attend to the Curtis agency.

Q. There is considerable work about the Curtis agency?

A. There is considerable work if it is done right.

Q. You have received bonuses at various times?

A. Yes, sir.

Q. Any of your boys win any material prizes?

A. I have boys that have won considerable money in my time with the Curtis Publishing Company.

Q. Any specific instance or sum that you have in mind?

A. No.

Q. They just come through the ordinary experience?

A. Yes, sir. I have had dealers win some specific——

Q. How were you asked to handle the "Pictorial"?

A. I was asked to take it on; that it would be a fine proposition to go ahead with them. I said it would be a very good proposition.

Q. Were you asked to handle it like the Curtis—through these boys?

A. Yes, sir.
Q. Who asked you?
A. Mr. Young asked me, I believe.
Q. Are you under the new contract?
A. No.
Q. How big a place is Boise?
A. Twenty thousand.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When did Mr. Young ask you to handle "Pictorial Review"?

A. About a year ago.

Q. Where were you when he asked you?

A. In Boise.

Q. In your store?

A. Yes, sir; in the store.

Q. Who was handling the "Pictorial Review" then?

A. Rolls, Case & Company.

Q. Do you know how Mr. Young came to ask you to handle "Pictorial Review" when he already had an agent?

A. I believe Rolls-Case were going out of business and he was looking for an agent and Rolls-Case had recommended me.

Q. They recommended you?

A. Yes, sir; they sent him down there and recommended me.

Q. Did Tillitson buy out the Rolls-Case Company?

A. No.

Q. They succeeded to that business, did they not?

A. They got the magazine business, but there was another party that took over the Rolls-Case store.

Q. Who became the wholesaler there of magazines after the Rolls-Case Company went out?

A. Tillitson.

Q. Was there any lapse of time?

A. I believe there was a little lapse of time—Tillitson was a little slow in taking hold and the Rolls-Case Company continued on until he took hold.

Q. And he continued to distribute?

A. Yes, sir.

Q. There was no lapse in the issues—no loss of issues?

A. No, sir; there was no loss of issues.

Q. How many times have you seen Mr. Young?

A. I do not believe I ever saw him but this one time.

Q. Have you ever seen him since then?

A. No.

Q. Would you know him if you saw him?

A. I believe I would; yes.

Q. Could you describe Mr. Young?

A. Yes.

Q. Is this Mr. Young sitting here? (Indicating a party in the court room.)

A. Sitting between you?

Q. Yes.

A. That is not the Mr. Young I saw.

MR. DALY: This is not the man you saw?

THE WITNESS: No, sir; that is not Mr. Young.

By MR. SPIESS:

Q. Is it very difficult to get boys?

A. To get the right kind of boys it is difficult—boys that will stay.

Q. What is the difficulty about getting boys?

A. Some of the boys just want to come because their neighbors' boys are selling—more for curiosity than anything else; and to get the right kind that will stay it is hard to pick them up.

Q. How do you get boys that will stay?

A. By advertising, and my best salesmen recommend a boy and bring him in.

Q. Do you do anything else to get the boys to stay?

A. Oh, after a boy comes and is recommended as a good, bright boy, and he sells, I keep encouraging him and telling him he is in business for himself and is selling for himself and he wants to keep a good supply on hand and get more customers and go right on.

Q. That encourages him to stay?

A. Yes, sir.

Q. Is it very hard to go right out and get boys to start with?

A. No—you mean the general average of boys?

Q. Do you have any trouble in going out and getting boys to start in handling the "Post," for instance?

A. No; I do not have any particular trouble, no.

Q. Do you go out and get any boys without offering them any rewards or premiums?

A. Yes, sir.

Q. Can you do that just as well without offering rewards or premiums?

A. Yes, sir.

Q. Do you know what the purpose of the premiums and rewards is?

A. Yes.

Q. What is that?

A. The purpose of the premiums and rewards?

Q. Yes.

A. To encourage the boys in the sales of the publications.

Q. After you get them?

A. After I get them; yes, sir.

Q. How much time do you spend in the distribution of the "Post" per week?

A. I should think about five hours.

Q. How much time do you spend per month in the distribution of "The Ladies' Home Journal"?

A. That would be about three or four hours.

MR. SPIESS: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. How did you learn the name of the "Pictorial" representative who called on you—how did you know his name was Young?

A. Mr. Tillitson——

Q. He said he was Young?

A. Yes, sir.

Q. You said you were not under the new contract?

A. I am not.

By MR. SPIESS:

Q. Has the new contract been offered you?

A. Yes, sir; I believe it was. I have not taken it up yet.

By MR. MILBURN:

Q. But you expect to continue your business under the new contract after you get around to it?

A. Yes, sir; I am satisfied with the old contract, as far as that is concerned.

By MR. SPIESS:

Q. You sell these magazines direct to the boys for cash money; do you not?

A. Yes, sir; direct.

A. M. BERESFORD, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Beresford, where do you live?

A. Boulder, Colorado.

Q. What is your profession there?

A. Attorney at law.

Q. Has your son Paul for some time been the district agent there?

A. He has, yes.

Q. And his brother was district agent before him?

A. Yes, sir; before him.

Q. And have you taken a general interest in their work in this connection and watched the matters?

A. Ever since the agency was placed with him I have had sort of supervision over it.

Q. When did they start?

A. I think the first contract was 1909.

Q. How do they distribute the magazines, Mr. Beresford?

A. You mean the method they have in distributing?

Q. Yes.

A. They distribute them personally; they have had no vehicle. The business district is concentrated. The dealers and boys come to the office where they distribute them, and get their copies.

Q. That is next to your office?

A. Yes, sir; just adjoining.

Q. And have they other boys handling the magazine?

A. Yes, sir.

Q. About how many?

A. I suppose twenty-four or twenty-five—somewhere in that neighborhood.

Q. What magazines do these boys sell?

A. They sell nothing except the Curtis publications.

Q. And that is all your sons handle?

A. Yes, sir.

Q. You say you have taken a general interest in the work your sons have done. What do you think of the educational advantage in this work?

MR. DALY: Now, I object to that.

MR. MILBURN: I do not see why it is incompetent. He is in a position to judge.

By MR. MILBURN:

Q. What results have you seen developed in your own sons, in this conection?

A. It has a tendency to make them alert in business matters, and make them accurate. It teaches them much in the way of financial training. I have observed that generally with all the boys that worked with them.

Q. When your son Paul was made agent, he was a minor, and the contract stood in your name?

A. He was in high school; he must have been seventeen or eighteen years old.

Q. And the contract stood in your name?

A. Yes, sir.

Q. And he was the acting agent?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Where is your son now?

A. In Fort Sill, Oklahoma.

Q. In the Army?

A. In the Aviation Corps.

Q. You say he was a high school boy when he became the agent?

A. Yes, sir.

Q. Had he been selling Curtis magazines before he became agent?

A. Yes, sir.

Q. How long?

A. He sold them when the older son was agent, in 1909, and sold as a boy—as a sub-agent—and when the older son got through college and left for work elsewhere, why, I had the agency put in Paul's name, and

he acted as district agent until this time, when he went to the Aviation School in October, and the agency has continued the same and locally it is still conducted in his name, but I have younger boys who do the distributing and looking after the work, the same as Paul did. The name of the agency has stood the same and the contract was taken in my name.

Q. He was a high school boy when he started to retail the magazines?

A. Yes; he was.

Q. Do you know whether or not he got a better financial training in handling Curtis magazines than he did in the high school?

A. I would not say he got a better financial training; Paul, I think, never sold copies until about that time, that he was in high school. He did not begin as young as most boys do.

Q. But he had a very good school education when he started to handle the Curtis magazines?

A. Yes, sir.

Q. And all he had to do was just simply sell so many magazines to a boy and receive so much money and remit to the home office?

A. As district agent; yes, sir.

Q. When he sold them at retail, he sold the "Post" at five cents?

A. Yes, sir. And bought them at three cents.

Q. It would not be very difficult to discover that if a man gave him ten cents he should give him back a nickel, would it?

A. Most boys can do that.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Does the "Pictorial Review" wholesale magazines in your city?

A. Yes, sir.

Q. And before that your son Paul was the only one there?

A. Yes, sir.

Q. And the Curtis Publishing Company was the only one maintaining a wholesale distributor?

A. Yes, sir; until the past few weeks.

Q. As a District Agent, a boy has got certain books to keep and has to make out certain reports and keep up his records?

A. Yes, sir. There is a lot of detail work.

Q. And has to make allowances for returns?

A. Yes, sir.

Q. And sometimes make credits—do they have any credits?

A. Yes, sir.

Q. It is a business proposition on a boy's scale?

A. Yes, sir; part of the dealers do a credit business from month to month and we make out statements of accounts and send them to these dealers, and the others pay cash at the time of delivery.

Q. And the limit of his experience is not making change on a ten-cent piece?

A. No, sir.

Q. Any Curtis representatives teach him how to make these entries?

A. Yes, sir; they have general inspections and directions, and the order blanks all have these directions on them.

Q. They are forms, are they not?

A. Yes, sir.

Q. Who is the "Pictorial Review" agent in Boulder?

A. His name is William Laird.

Q. Do you know how he receives his magazines?

A. No; I do not.

Q. Has the new contract been put in force in your agency?

A. Yes, sir.

By Mr. Spiess:

Q. Do you know of your own knowledge that Mr. Laird is the wholesale distributor for the "Pictorial Review"?

A. I see him distributing them and taking up the returned copies.

Q. Do you know whether or not he is the wholesale distributor for the "Pictorial Review" Company or an agent acting for some one else?

A. That I do not know.

By Mr. Milburn:

Q. The "Pictorial Review" asked you to handle their paper?

A. Yes, sir.

Q. And did you not refer them to Mr. Laird?

A. I referred them to Mr. Laird.

Q. Have you been approached by other magazines in addition to the "Pictorial"?

A. By mail; yes, sir.

Q. Have you ever taken any of them on?

A. No, sir; except at one time I took on "Collier's" for about a month about three years ago. That was a prior proposition, and I abandoned it.

Q. You abandoned it?

A. Yes, sir.

By Mr. Spiess:

Q. Who approached you to handle the "Pictorial Review"?

A. Something like——

Q. No; I said who.

A. —five or six weeks ago some young man came to my office and inquired for Paul and wanted to know if we wanted to take on the "Pictorial Review" and the "American Magazine." I think he said his name was Barnes, but I would not be positive. I had never seen him before, or since.

Q. Do you know whether or not this young man asked you to handle the "Woman's Home Companion" instead of the "Pictorial Review"?

A. My recollection is that it was "Pictorial Review."

Q. And not the "Woman's Home Companion"?

A. No, sir; the "American Magazine."

Q. They are different publishers.

A. I do not know as to that. That was the proposition—he had two publications.

Q. Did he have copies of them?

A. He did not show them; he had a package of some kind. I told him I did not want them and he made no effort to display them or urge the matter. He asked who would be likely to take on an agency and I referred him to a couple of men.

Q. A year ago, did any one approach you to handle the "Pictorial Review"?

A. A year ago?

Q. Yes.

A. Not that I know of.

Q. You had not been approached until five or six weeks ago?

A. No, sir.

Q. Under the new contract, are you still crediting these retail dealers with the Curtis magazines from week to week?

A. Credit them?

Q. Yes; give them credit.

A. Yes.

Q. How do you remit for your publications to the Curtis Publishing Company?

A. We remit every week for the sale of the current week less returns of previous issues. That is the new form.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

R. P. FLANDERS, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Flanders?

A. Los Angeles, California.

Q. What is the population of Los Angeles?

A. Oh, about five hundred thousand, I guess.

Q. Are you the Curtis Publishing Company's District Agent there?

A. Yes, sir.

Q. How long have you been such District Agent?

A. Since October, 1915.

Q. Are there any other magazine wholesalers in Los Angeles?

A. Yes, sir.

Q. Who are they?

A. The branch of the American News Company, the Edgar Brothers, and the Los Angeles "Examiner."

Q. What do you handle?

A. Curtis magazines, "Literary Digest" and "Collier's Weekly."

Q. What do the Edgar Brothers handle?

A. A number of them—about twenty altogether.

Q. The Edgar Brothers are the big magazine wholesalers, are they not?

A. Yes, sir.

Q. And their business extends to towns outside of that?

A. Yes, sir; they cover a number of outside towns.

Q. How do you distribute your magazines?

A. By automobiles.

Q. What magazines did you handle first?

A. The Curtis magazines.

Q. As a matter of fact, before that you were the District Agent in San Francisco, were you not?

A. Yes, sir.

Q. And you handled the Curtis magazines first of all?

A. Yes, sir.

Q. How many boys have you?

A. We have, I think, in the neighborhood of about 270.

Q. Are they all directly under you or have you sub-agents?

A. We have a few branch agents in different parts of the city.

Q. You keep general track of all of them?

A. Yes, sir; we receive lists of sales every week.

Q. And report on them?

A. Yes, sir.

Q. How do you get them?

A. How do I get them?

Q. How many were turned over to you at the time you took the agency?

A. That I could not say; I have no recollection of how many.

Q. Have you increased the staff, from time to time?

A. Yes, sir.

Q. And made changes from time to time?

A. Yes, sir.

Q. And reinforced the force of boys from time to time?

A. Yes, sir.

Q. And have you received the co-operation of the Curtis Publishing Company in your efforts to recuperate your force?

A. Yes, sir.

Q. In what way?

A. By letters from the company and by visits from their superintendent, who calls on me frequently and who helps me out.

Q. What do these boys sell besides the Curtis Publishing Company's publications?

A. Nothing, except newspapers; I know a few that sell newspapers.

Q. How many, approximately?

A. I should not say over thirty out of our boys, at the most.

Q. Do you devote any of your personal care and time to the supervision of these boys?

A. We are continuously co-operating with the boys.

Q. In what way?

A. We hold meetings and we have picnics for them and have—oh, we would have a number of meetings at the Y. M. C. A.; in fact, the Y M. C. A. have placed a room at our disposal there and we have a meeting whenever we want to.

Q. Do you know of similar activities on the part of other publishers than the Curtis Publishing Company?

A. No, sir.

Q. Have you received any bonuses or prizes or have any of your boys received any?

A. Yes, sir.

Q. To what extent?

A. I have one boy who won $400, and two boys who have won $150, and two that won $100, and a number that have received smaller prizes, and I myself have received several of over $10).

Q. And that is a material element in the compensation you receive?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. These thirty boys that sell newspapers—how do you list them on the Curtis reports?

A. Those boys I list as regular Curtis boys—the ones that handle possibly only Sunday morning papers—but the ones that sell newspapers downtown we class as corner boys, and I put them on the dealers' list.

Q. You do not class them as Curtis boys?

A. No, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Do the corner boys pay a different price than the boys who sell from house to house?

A. Yes, sir.

Q. How much?

A. Half a cent.

Q. In whose favor?

Q. In favor of the Curtis boy.

Q. The boy that sells from house to house?

A. Yes, sir; who have regular customers and solicit the new ones.

Q. How often do you see these regular boys?

A. Either I or my employes see them or their parents practically every week.

Q. How often a week?

A. Once every week, on Fridays, and those that come to the office I see personally every Thursday.

Q. You say of your own knowledge only thirty boys sell newspapers?

A. That is only a rough estimate. I have no figures on that.

Q. On what do you base that figure?

A. Why, from different boys who have told me that they have sold the Sunday morning papers.

Q. And only thirty boys have told you that?

A. I would not say exactly thirty.

Q. Approximately thirty?

A. Yes, sir; approximately thirty.

Q. The other 240 have not told you anything at all?

A. Have never mentioned it.

Q. You do not know whether they sell newspapers or not?

A. Not of my positive knowledge; no.

Q. And you do not know that, then?

A. No, sir.

Q. You said you had one boy who had received $400, and two boys who had received $150, and two boys who had received $100.

A. Yes, sir.

Q. Was that during the time the Curtis Publishing Company was running a national campaign?

A. The national contest; yes, sir.

Q. A national contest?

A. Yes, sir.

Q. These prizes were given for increased circulation, were they not?

A. Yes, sir; that is correct?

Q. Do you know of any such sum having been won by boys when a national contest was not on?

A. Why, no; I do not know of any.

Q. Did you get this $100 when the national contest was on?

A. Not at that time—I do not recall whether there was a contest for agents at that time, but I do not think so. It might have been just a little bit later.

Q. When did this contest end?

A. This contest for boys?

Q. This national contest.

A. This national contest—well, I cannot state ex-

actly; I think it was possibly a year and a half ago, or a year ago—about a year and a half go, I should say.

Q. Do you know what your drawings were the last week of that national contest?

A. No.

Q. Could you get that?

A. Not without going home to get it.

Q. When you get home, I mean.

A. Oh, yes.

Q. Will you kindly get that and send it to the Federal Trade Commission?

A. Well, I would have to get some information as to just when that contest closed.

MR. SPIESS: Mr. Douglas will give you that.

MR. DOUGLAS: I do not know which ones you mean. He had a number of them.

By MR. SPIESS:

Q. I suppose, in mentioning these prizes you mean the last national contest?

A. I think it was the last one; I am not positive.

Q. What is your drawing now on the "Posts"?

A. At the present time we are handling about 17,000.

Q. Has it increased or decreased over the last week of your drawings in the national contest?

A. I think we have increased a little, possibly. There is a slight increase every week.

Q. How many boys did you have during the contest?

A. Why, I think possibly around two hundred or two hundred and twenty-five, maybe.

Q. You have forty or fifty now?

A. Yes, sir.

EXAMINER MOORE: How many "Posts" do you sell a week?

THE WITNESS: Seventeen thousand at the present time.

By Mr. Spiess:

Q. Do you have accounts with dealers?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. How do you remit to the Curtis Company for the accounts that are outstanding?

A. I remit the day after the sales date or two days after, possibly.

Q. Even though you have not been paid by the retailers, you remit to the Curtis Company, anyhow, do you not?

A. Yes, sir; I do. We make our collections from the dealers on Saturday and Friday, and I either remit Friday or Saturday myself.

Q. You handle the "Literary Digest," do you not?

A. Yes, sir.

Q. How long have you been handling that?

A. Since March 24, 1917.

Q. What is your drawing on that now?

A. About 5100 at the present time—this week I think it is 5100.

Q. Do the boys sell them?

A. No, sir; except our newsboys downtown.

Q. Do your Curtis boys ask for them?

A. No, sir.

Q. They never ask for them?

A. Possibly one or two might ask for them.

Q. Did you ever try to get the boys to handle them?

A. No, sir.

Q. Why not?

A. Because it is my idea that Curtis Company does not want it. In fact, my understanding with the "Digest" roadman was we would not encourage any Curtis boys to sell them.

Q. Would that have increased your circulation?

A. I could not say.

Q. Does it increase your circulation of "The Saturday Evening Post" to have it handled by the boys?

A. I guess it has increased it.

Q. Do you not know it does increase your circulation to have the boys handle it?

A. I think so because the more customers you have the more you sell.

Q. If you had the boys sell the "Literary Digest" would it not increase your circulation?

A. I think so.

Q. Well, why do you not get boys?

A. The Curtis Company will not allow us to sell through their boys.

Q. Why do you not get other boys?

A. Because I do not care to.

Q. You do not care to increase the circulation of the "Literary Digest"?

A. I have increased the circulation.

Q. Do you think you have given them the most efficient service?

A. You will have to ask them that.

Q. I am asking you.

A. I think they are well satisfied with my work.

Q. Is it very hard to get boys?

A. It is hard to get good boys.

Q. What is the population of Los Angeles?

A. Why, I think about 500,000—maybe 550,000.

EXAMINER MOORE: How are most of the magazines sold in Los Angeles—through boys or dealers?

THE WITNESS: Of all magazines?

EXAMINER MOORE: Of the Curtis Publishing Company.

THE WITNESS: We sell more to the dealers.

By MR. MILBURN:

Q. What proportion?

A. Well, let me see—I should say about possibly three-fifths of the dealers and two-fifths to the boys, as near as I can estimate it now.

By MR. SPIESS:

Q. What is your profit on "The Saturday Evening Post" sold to the retailers?

A. What is my profit on "The Saturday Evening Post" sold to the retailer?

Q. Yes.

A. We make a cent a copy.

Q. What is your profit when sold to the boys?

A. One-half a cent.

Q. What is your profit on the "Literary Digest"?

A. One cent.

Q. If you had boys selling the "Literary Digest," you would make the same profit on that sale, too, would you not?

A. I presume so, unless they made other arrangements.

Q. Is it not your instructions from the Curtis Publishing Company that you must not sell the "Literary Digest" to boys?

A. That is my understanding——

Q. Not to Curtis boys, but any boys?

MR. MILBURN: I object to that.

MR. SPIESS: I am asking you now, have you now received instructions from the Curtis Company not to sell "Literary Digests" to any boys?

A. My conception of boys——

MR. SPIESS: Just a moment.

MR. MILBURN: Let him go ahead.

MR. SPIESS: I am now asking him what his instructions were——

MR. MILBURN: You asked him—let him answer the question.

MR. SPIESS: I am asking for his instructions —I am asking him what instructions he received.

THE WITNESS: I believe my instructions are not to sell to boys, but my idea is——

By MR. SPIESS:

Q. Just a minute. Have you not been instructed by the Curtis Publishing Company not to sell the "Literary Digest" or "Collier's Weekly" to boys—have you not received such instructions?

A. I do not think they have mentioned "Collier's Weekly" specifically; I do not think they have mentioned specifically any magazine.

Q. Not to sell to boys?

A. Not to sell to boys; yes, sir.

Q. Were you ever asked to handle the "Pictorial Review"?

A. No, sir.

Q. Your bond has been increased under the new contract?

A. Yes, sir.

Q. And that is to cover what your advanced remittances were formerly under the old contract?

A. Yes, sir.

MR. SPIESS: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. You said you extended credit to certain of your dealers.

A. Yes, sir.

Q. That is, you trust them and send them bills and they come in and pay?

A. Yes, sir.

Q. But you do that under your own risk?

A. We make our collections every week, with the exception of a few big department stores, where we render monthly accounts.

Q. Did the "Literary Digest" ever ask you to form a boy organization for the disposal of their papers?

A. No, sir.

Q. Did they ever show any eagerness to spend any money to make up the organization—a boy organization—to distribute their papers?

A. No, sir; in fact, the roadman of the "Literary Digest" said he did not care to have me use boys in the selling of the "Literary Digest."

Q. No concern other than the Curtis Company has shown any willingness to spend any money in getting boys?

A. None whatever.

Q. And have they spent considerable in your district?

A. Quite a bit; yes, sir.

Q. And you interpreted your instructions not to sell to boys to mean Curtis boys?

A. Exactly.

Q. That applies also to "Collier's" magazine, does it not—that last question?

A. It applies to all magazines that I am aware of.

Q. And "Collier's" have not tried to start a boy organization in Los Angeles?

A. No, sir.

Q. Or expressed any eagerness to pay out any money on that proposition?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. Have all the boys you have gotten been sent to you by the Curtis Company?

A. Not exactly all of them.

Q. When a boy comes in that has not been sent to

you by the Curtis Company and starts to sell Curtis magazines, do you report him to the Curtis Company?

A. Yes, sir.

Q. And you list him as a Curtis boy?

A. Yes; unless he is a newsboy.

Q. But a boy that comes in and says he wants to buy "The Saturday Evening Post" and no one has sent him there, but he simply wants to get into the selling game—selling magazines—and you sell him the Curtis magazines, do you list him as a Curtis boy?

A. Yes, sir.

Q. What have they done to get that boy?

A. That is hard to say; they may have done something.

Q. But you do not know that?

A. No, sir; but quite frequently they will be brought in by other boys.

Q. Do any of the boys ask you for the "Literary Digest"?

A. I might have one or two or three or four—a very small amount; I do not remember.

Q. Have any Curtis boys asked for the "Literary Digest"?

A. I said a moment ago I thought there might be one or two.

Q. Do you sell them to them?

A. No, sir.

Q. Why not?

A. I think I answered that question before.

Q. I am asking you again; I do not remember what your answer was.

A. Because the Curtis people do not like us to sell through their boys.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

WILLIAM E. MCNERNEY, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. What is your occupation?

A. My occupation is now agent for the Curtis publications, and I am agent for the "Denver News," and I work in the mines, besides.

Q. Whereabouts?

A. At Goldfield, Colorado.

Q. You are the Curtis agent in Goldfield, Colorado?

A. Yes, sir.

Q. How large a place is that?

A. Goldfield has a population of about a thousand now, and I have the agency for several adjoining towns —Victor, Elkton, Anaconda and Independence.

Q. Are there any other magazine wholesalers in that district?

A. No, sir; only the Colorado News Company, and a branch of the American News Company.

Q. What do they wholesale?

A. As far as I know, they wholesale every magazine that comes into the district.

Q. You only wholesale the Curtis magazines?

A. Yes, sir.

Q. What was your first connection with the Curtis Company?

A. I started to retail magazines for the Curtis Company when I began. That has been six years ago.

Q. You were what they call a Curtis boy?

A. Yes, sir.

Q. And you kept on at that until you were appointed district agent?

A. Yes, sir.

2551

Q. Have you boys working under you?

A. Yes, sir.

Q. How many?

A. About eight at the present time.

Q. How many have you had at the most?

A. I have had as high as fifteen.

Q. And have you worked with them in the direction of their efforts?

A. Yes, sir.

Q. And shown them how to sell papers and increase their sales?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Have you won any prizes or bonuses in your associations with that company?

A. Yes, sir; I have won—well, probably $25. That was in that automobile offer.

Q. Was that all? Did you win a trip prize?

A. I won a prize—I went to Spokane a few days ago.

Q. Were you district agent then?

A. I was district agent; yes, sir.

Q. You know these boys to whom you distribute papers personally?

A. Yes, sir.

Q. And you know their parents?

A. Yes, sir; very intimately.

Q. In getting your boys and maintaining your staff, has the Curtis Company co-operated and helped you?

A. Yes, sir.

Q. In what ways?

A. They make offers; if you get new boys they will give you a dollar for each boy if he sells papers for a certain time.

Q. Do they advertise for boys?

A. Yes, sir.

Q. And have you had meetings with their road men?

A. I have had meetings with their roadmen who came into the district.

Q. Have you ever been asked to handle any other magazines?

A. Only through mail and correspondence.

Q. Were you asked to handle either the "Every Week Magazine" or the "Pictorial Review"?

A. I was asked to handle "Every Week" for the Crowell publications. I never thought enough of it to even answer it.

Q. This other wholesaler was in the town then?

A. There was never any other——

Q. I mean, the news company?

A. Yes, sir.

Q. They were wholesaling the bulk of magazines and were doing business then?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How many boys have you now?

A. I have about eight.

Q. What is the population of that town?

A. Victor—the federal population is a lot higher than the population to-day, because the people are going away and the population has dropped off. I would not say there is over six or seven thousand in my whole territory.

Q. In that whole town?

A. That is my estimate of it.

Q. How long have you lived in that town?

A. Seven years.

Q. Could you not go out and get eight boys without a lot of advertising and offering of premiums?

A. You can not get the eight boys I have got.

Q. You could not?

A. No, sir.

Q. Why not?

A. Because the training they have got, you could not give in ten minutes.

Q. Do you not think that they had that training when they came with you?

A. No, sir.

Q. Who gave them that training?

A. I did.

Q. Could you not have gotten eight boys and have given them training without advertising?

A. Of course, you have to weed them out and pick out the best ones.

Q. In the last three years, how many have you had to weed out in order to get the eight?

A. Off and on some will come in and some sell two or three weeks and some six or eight months, and I have had boys who have sold Curtis publications for two or three years.

Q. In the last two or three years, how many boys have you had?

A. All told?

Q. Yes.

A. I imagine I have had twenty-five or thirty all told.

Q. And out of the twenty-five or thirty, eight remained with you?

A. Yes, sir.

Q. How long were you selling Curtis magazines, roughly, retail?

A. About three years.

Q. How did you come to sell Curtis magazines?

A. Well, I was going to school and needed a little spending money, and I knew the district agent in

Cripple Creek and he thought he would give me a trial and started me out with twenty "Posts."

Q. Did he give them to you or sell them to you?

A. He sold them to me.

Q. Twenty "Posts" a week?

A. That was the first week.

Q. And when you bought those twenty "Posts" and started to sell them, did you know you were a Curtis boy?

A. Yes, sir.

Q. How did you know that?

A. Because he told me.

Q. Now, when you got these $25.00, and the trip to Spokane, Washington, were they not conditional on your selling a certain number of Curtis magazines?

A. Well, the $25.00 was, but the trip to Spokane was not.

Q. What was that for?

A. That was just in reward of my efforts as a whole.

Q. Just as a vacation, as a reward for the work you had done for the Curtis Company?

A. Yes, sir.

Q. When you got to Spokane was there a conference on there of the Curtis boys and the Curtis agents?

A. Yes, sir.

Q. How long did you remain there?

A. Three days.

Q. Was there a conference every day?

A. Yes, sir; two or three times a day.

Q. Another reason you went there was you were to be trained more efficiently in handling Curtis publications?

A. Yes, sir.

Q. In order to increase the circulation?

A. Yes, sir.

Q. What time do you get off from your other work in the mines?

A. Two or three o'clock in the afternoon.

Q. How much time do you spend in handling the Curtis magazines?

A. I spend maybe ten hours a week.

Q. How many do you distribute of the "Post"?

A. About 235.

Q. You take ten hours a week to handle 235 "Posts"?

A. Well, I look after it well, and go at all the boys, and I have collections to make and my time in the main is used up to the extent of about ten hours a week.

Q. You are under the new contract?

A. Yes, sir.

Q. Your bond has been increased?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. When you first got your twenty "Posts" and made good selling them, you knew that you became entitled to certain privileges and a chance to make bonuses and prizes over and above your commissions?

A. Yes, sir; I got a number of publications and books mentioning that.

By MR. MILBURN: That is all.

M. J. BRENNAN, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Brennan?

A. Creston, Iowa.

Q. And you are the Curtis agent there?

A. Yes, sir.

Q. What is your other business?

A. Drug business.

Q. How long have you been the Curtis agent?

A. Four years this coming August.

Q. What magazines do you wholesale?

A. Nothing but Curtis magazines.

Q. Did you ever handle any other magazines?

A. Not in a wholesale way.

Q. Have you ever been asked to handle other magazines?

A. I have been asked to job the "Pictorial Review" and Hearst's publications.

Q. By "job," you mean wholesale?

A. Wholesale; yes, sir.

Q. Qou sell the "Pictorial" retail, do you not?

A. Yes, sir; at the time we were asked to take the "Pictorial" agency for them, I started buying them direct from the "Pictorial" people. Up to that time I had procured them through the Western News Company, in Chicago.

Q. Is there any other magazine wholesaler in Creston, Iowa?

A. No, sir.

Q. You are the only one?

A. Yes, sir.

Q. You handle only Curtis publications?

A. Yes, sir; in a wholesale way.

Q. No other publishing house maintains a wholesaler there?

A. No, sir.

Q. Were you asked to handle "The Chicago Tribune"?

A. Yes, sir.

Q. Did you do it?

A. No, sir.

Q. Were you asked to handle any other Chicago paper?

A. It was tentatively agreed that if I would take over "The Chicago Tribune" and act as their wholesaler there, I would get the "Chicago Herald."

Q. Do you know why they came there?

A. Mr. Phillips, of "The Tribune," told us we were the logical dealers, because being the distributors of the Curtis people.

Q. You were the only one, in addition to the American News Company, and therefore that, in addition to being the logical one?

A. The newspapers are wholesaled by other dealers.

Q. There are other newspaper wholesalers?

A. Yes, sir.

Q. You said you were asked to wholesale the "Pictorial," were you not?

A. Yes, sir.

Q. Did you receive that circular from the "Pictorial" management? (Handing paper to the witness.)

A. Yes, sir; I did not receive that one; I received a copy similar to that.

MR. DALY: Was it the same as that?

THE WITNESS: Yes, sir.

MR. DALY: When did you receive that?

THE WITNESS: During the holiday season of 1917.

MR. WELCH: What holiday season?

THE WITNESS: The Christmas holidays.

MR. MILBURN: I offer that in evidence.

EXAMINER MOORE: Are there any objections?

MR. DALY: None.

(The circular referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 30," and the same is as follows:)

RESPONDENT'S EXHIBIT NO. 30.

"THE PICTORIAL REVIEW COMPANY
The Pictorial Review Building
216-226 West 39th Street
New York

Your quota is .....
for every copy you sell
over this you make extra
money. The letter explains.

SOME EASY MONEY FOR SELLING A MAGAZINE EVERYBODY WANTS

Every word of this letter is important. Read it carefully.

December 8th is the day——

The January issue of Pictorial Review will be placed on sale Saturday, December 8th—NOT on the tenth as usual.

The January issue can be made a tremendous seller. It has the possibilities as I shall show you BUT you must get *it* unusual display, as the Christmas Holidays are at hand and only vigorous salesmanship will get the sales and the profits.

The Winning Baby——

First of all, the cover is a baby cover, and (as you know from your sale on December) baby covers are always big sellers.

One ending——

Second, we end the Kathleen Norris serial in this issue. Hundreds of thousands of people are reading that serial and will climb over one another to get the final instalment.

Another beginning——

Third, we begin a new serial in this issue—a mystery story called "The House of Intrigue"

by Arthur Stringer, author of "The Prairie Wife." I am enclosing a copy of one of the advertisements we are using. These advertisements will appear in

The message——

	Published
Cosmopolitan	Dec. 8th
Mother's Magazine	" 10th
Woman's Home Companion	" 15th
McClure's Magazine	" 16th
The Ladies' Home Journal	Jan. 1st

Five million readers get the story——

Now, size up this campaign and see why I planned it as I did: all the readers of these periodicals are magazine readers. Every one of them is accustomed to pay fifteen or twenty cents a copy for these magazines. There is no waste circulation. Every one of these people is a good prospect for a reader to Pictorial Review, if sufficiently attracted, and there are over five million readers to these magazines who will see this advertisement which I am enclosing for you to read. Out of that five million we should get some. How many we get in your city depends upon how vigorously you co-operate with us.

Over a million on the 8th——

Notice how this campaign operates: on the eighth, when we publish, Cosmopolitan also appears and tells its more than one million readers about this new story in Pictorial Review—a million, remember that.

Half a million more on the 10th——

On the tenth, 500,000 readers of Mother's Magazine get the story.

A million more on the 15th——

On the fifteenth, more than a million Woman's Home Companion readers are told the story.

600,000 more on the 16th——

Next day, the sixteenth, 600,000 McClure readers get the tale.

All these between the 8th and 16th should make things move with a rush.

If you have gotten a big display everywhere on the 8th and kept after the dealers to keep Pictorial Review in a big pile, right out front, you should be pretty well cleaned out by the 20th. That's the day the Ladies' Home Journal ordinarily appears, but this month, they do not publish until ten days later. So, if you're a live, wide-awake wholesaler you'll get out on the 20th with a new supply of Pictorial Review, covers, posters, etc., and get a great big new display exactly as it it were just out. If you do you are going to catch a lot of Ladies' Home Journal readers who will be looking for something to read, right about that time, and will not be willing to wait ten days longer for the Ladies' Home Journal.

1,700,00 more to clean up

If you've managed this campaign well you should be pretty nearly cleaned up on January 1st when the Ladies' Home Journal for January appears, containing our advertisement, and telling its 1,700,000 readers to go and buy Pictorial Review. That should sweep the boards clean.

Now here's something to make you want to push this January number as you never pushed any magazine before:

At the top of this letter you will find a square stating "Your quota is" and the figure written there in red ink is in round numbers your net sale

on a recent issue. To beat that figure with January should be a cinch!

Easy Money For you IF——

If you make an increase on January over that quota figure of not over 50 copies we will pay you 2¢ per copy for the increase.

If you increase over 50 but not over 100 we will pay you 3¢ per copy for the increase.

If you increase over 100 but not over 250 we will pay you 4¢ per copy for the increase.

If you increase over 250 but not over 500, we will pay you 5¢ per copy for the increase.

If you increase over 500 but not over 750 we will pay you 6¢ for the increase.

If you increase over 750 but not over 1000 we will pay you 7¢ per copy for the increase.

If you increase over 1000 but not over 1500 we will pay you 8¢ per copy for the increase.

If you increase over 1500 we will pay you 9¢ for the increase.

Remember this bonus is in addition to your regular wholesale profit of 1¼¢ per copy.

You Can Get a Bonus Easily—

There is no objection to your passing on a part of this extra coin to the retailers who help you win. That is up to you.

Maybe you have some newspaper or route boys whom you could get started with a monthly delivery by offering them this bonus in addition to their regular 4 cents.

But remember this: that January cover, that Kathleen Norris serial ending, that new mystery serial beginning and those five million and more high-class magazine readers we are telling about that serial—all these things are going to give you

a big increase and a big chunk of bonus money if you do your share. We've done ours. The rest is up to you.

Sincerely,

B. A. MACKINNON,
Circulation Director.

B S 60—11-28-17."

By MR. MILBURN:

Q. How do you distribute your magazines? ?

A. By boys.

Q. And how many boys have you?

A. Eleven at the present time.

Q. Where did they get the magazines?

A. At the store.

Q. Do they distribute anything but the Curtis magazines?

A. No, sir; I think that one of them sells newspapers, but outside of that one none of them handle anything but the Curtis magazines.

Q. Do you instruct them and aid them in their work in the sale of papers?

A. Yes, sir.

Q. And does the Curtis Publishing Company cooperate with you in that work?

A. Yes, sir. In fact, the Curtis Publishing Company do the most of the work in instructing the boys and coaching them, and attending to that, because the magazine business with us is a side line.

Q. You keep a drug store?

A. Yes, sir.

MR. MILBURN: I think that is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. When you received this copy, marked "Respondent's Exhibit No. 30," were you wholesaling "Pictorial Review" then?

A. No, sir.

Q. Now, can you point out in this exhibit anywhere where it requests you to take the wholesale agency for the "Pictorial Review"?

A. No, sir.

MR. DALY: I want to ask counsel on the other side whether or not this circular, which has been admitted here by agreement—whether or not that circular was not sent to a wholesale dealer instead of a retailer.

MR. MILBURN: He stated he received a copy of the circular.

By MR. SPIESS:

Q. How were you requested then to wholesale the "Pictorial Review"?

A. By their traveling representative.

Q. And not by this circular?

A. No, sir.

Q. What traveling representative of theirs asked you to take on the "Pictorial"?

A. I do not know his name.

Q. When was this?

A. Early in the season or late in the winter of 1917.

Q. You say you were asked to handle the Hearst's magazines?

A. Yes, sir.

Q. Why did you not handle the Hearst magazines?

A. Because I did not have facilities to handle them, and I realized that it would be a violation of our contract with the Curtis people.

Q. To handle the Hearst magazines?

A. Yes; without their consent.

Q. Did you write for their permission?

A. No, sir.

Q. Did you write for their permission to handle the "Pictorial Review"?

A. No, sir; I did not have any desire to handle either one of them because I did not have the facilities to handle them.

Q. How many boys have you?

A. Eleven.

Q. You say only one of them sells newspapers?

A. Yes, sir.

Q. Do you know of your own knowledge that only one of them sells newspapers?

A. Absolutely.

Q. How often do you see these boys?

A. Every day.

Q. Where do you see them every day?

A. In the store.

Q. What do they do in your store every day?

A. They are in there for various things; the town is a small one and the business district is very compact, and it does not cover a great area.

Q. Any boys of your town serve newspapers in the residential section?

A. Yes, sir.

Q. Do you know, of your own knowledge, whether any of these boys of yours do?

A. Well, none of them do.

Q. How do you know that?

A. Because they told me so.

Q. Did you ask them?

A. Yes, sir; a short time ago I had one of the Curtis boys quit handling the "Post" because he had two routes, a morning route and an evening route—newspaper routes—and he figured it was too much for him to handle those routes and the Curtis publications too, so he turned the Curtis proposition over to his brother.

Q. Gave up the Curtis publications?

A. Yes, sir.

Q. How long was he handling these routes?

A. Before he quit handling the Curtis publications?

Q. Yes.

A. He gave up the Curtis publications on assuming the newspaper routes.

Q. He took both of those propositions on at the same time?

A. No, sir; he took on the morning route first.

Q. How long was he serving this newspaper route——

MR. MILBURN: How long from when?

MR. SPIESS: From the beginning.

THE WITNESS: I have no idea.

By MR. SPIESS:

Q. How long had he been selling Curtis publications?

A. About eighteen months.

Q. When did you first learn of his serving these routes?

A. When he told me of it.

Q. When was that?

A. About three months ago.

Q. You do not know of your own knowledge whether all these boys are selling newspapers—you did not know of this case until three months ago?

A. He is not selling newspapers; he has a newspaper route.

Q. You do not know whether all of these other boys do that?

A. Absolutely I do; except that one.

Q. Why?

A. Because I am in touch with them.

Q. You were in touch with this boy and did not know it for sixteen months?

MR. MILBURN: I object to that. He did not state that. He specifically said he began about three months ago.

By Mr. Spiess:

Q. When did he tell you about that?

A. When he began to deliver them.

Q. When was that?

A. About three months ago.

Q. He has two routes?

A. Yes, sir.

Q. Which route has he had the longest?

A. The morning route.

Q. When did he tell you he was selling on the morning route?

A. When he began to handle it for them.

Q. I asked you that and you said you did not know.

A. Then I misunderstood your question.

Q. When did he give up the Curtis publications?

A. When he got his smaller brother broken in.

Q. When was that?

A. About three weeks after he began to deliver the morning papers. He took his small brother around and familiarized him with his customers, and he discontinued his Curtis magazines and took up the delivery of the evening paper as well.

Q. Was he delivering the evening paper before he gave up the Curtis publications?

A. No, sir; but he had that in mind, and that is the reason he gave up the Curtis publications, as he figured it would be too much for him to deliver the morning and evening papers and also deliver the Curtis publications.

Q. What is the size of your town?

A. Eight thousand—between seven and eight thousand.

Q. Have you had any trouble in getting boys?

A. Not a great deal; the Curtis Publishing Company does that for us by offering thrift stamps, bonuses and various things to get the boys in. As I said, the magazine proposition is a side line to us, and most

of that work is left to their traveling salesman, and the correspondence from the Curtis Company.

Q. Who coaches the boys in salesmanship?

A. I do.

Q. Does the roadman also?

A. Yes, sir.

Q. How often do you coach them in salesmanship?

A. Whenever we get a new boy I go through with it with him, thoroughly explaining to him the possibilities of it, and the value of thrift and economy, and with our boys I extend them credit to start up first. I make them keep account of them and pay for them after they have sold them—that is, the first bunch. I tell them they must bring the money in for them after they sell them. That starts them off.

Q. You say you were offered the agency for a Chicago paper and were told at that time if you took it on you would get the agency for another Chicago paper?

A. Yes, sir.

Q. Do you remember who told you that?

A. Mr. Phillips, the roadman for the "Chicago Tribune," in Iowa.

Q. You say there are wholesalers of newspapers in your town?

A. Yes, sir.

Q. How many?

A. One other.

Q. What newspapers does he wholesale?

A. The Chicago papers, the "Tribune," the "Examiner" and "Herald"—up to the time it was consolidated with the "Examiner"—and I think that is all. I think he also wholesales the Omaha and Des Moines papers.

Q. Does he have boys?

A. Yes, sir.

Q. Do you know how many boys he has?

A. He has four or five.

Q. You mean four or five boys that serve just residences?

A. Yes, sir.

Q. And on the street?

A. He has none on the street.

Q. He has none selling papers on the street?

A. Yes, sir; the Des Moines papers have boys they send papers direct to and they sell them on the streets.

Q. How many retailers are there there?

A. Five.

Q. Are they very close together?

A. Yes, sir; the town is very compact; the business district does not cover over an area of four or five square blocks—five square blocks at the outside.

Q. You are under the new contract?

A. Yes, sir.

Q. Has your bond been increased?

A. Yes, sir.

Q. That letter you hold in your hand—"Respondent's Exhibit No. 30"—you say you received a copy of that?

A. Yes, sir.

Q. Have you that copy at home?

A. I think I have; I am not positive.

Q. How do you know it is exactly the same as that?

A. Well, I could not swear it was exactly the same as this. I did not know there was another one in existence.

Q. That is what I am asking you—do you know that the contents of that exhibit, "Respondent's No. 30," are the same as the contents of the letter you received?

A. Just from the general trend of it.

Q. What do you mean by the general trend of it?

A. Why, the bonus and easy money for selling magazines, and the time of the year that I received it.

Q. Now, after reading that letter through, do you know whether that is intended for wholesale sales or retail sales?

MR. MILBURN: I object to that. It speaks for itself as to what it is intended for.

By MR. SPIESS:

Q. I am asking him if he knows. He says that he knows that this letter was the same——

MR. MILBURN: You are asking him to testify what was in the mind of the man who sent it.

MR. SPIESS: I asked him if he knows whether this letter was intended for the sale of magazines by wholesale or retail. He now states that this letter was the same as the letter he received at home. I asked him what he knows about it.

MR. MILBURN: I restate my objection on the ground it is incompetent and immaterial and calls for his conclusions as to the operations of another's man's mind.

EXAMINER MOORE: Ask him to describe it.

MR. SPIESS: I am asking him to state whether or not he knows this circular was intended for the sale of magazines at wholesale or the sale of magazines at retail. I am asking if he knows it. We have a Constitution in this country, but he might not know what the Constitution contains. I am asking for his knowledge.

MR. MILBURN: I will withdraw my objection and let him answer.

THE WITNESS: This is evidently intended for wholesale——

MR. SPIESS: Just a moment.

MR. MILBURN: Let him answer; you asked him

the question.

EXAMINER MOORE: You can explain your answer, Mr. Witness.

THE WITNESS: It explains in this letter that——

MR. SPIESS: I asked him to state whether——

MR. MILBURN: I ask that he again be directed to continue his explanation.

THE WITNESS: It was intended evidently for wholesalers, because this paragraph goes on to say that there is no objection to passing on this extra coin to the retailers who help you to win; it is up to you to win.

By MR. SPIESS:

Q. I ask you again whether or not you know that this letter is intended to cover the sale of magazines at wholesale or the sale of magazines at retail.

A. At wholesale I would say to that——

Q. Let me have the letter please. Your understanding is that this letter was intended for wholesalers?

A. Yes, sir.

Q. And you are a retailer?

A. Yes, sir.

Q. Will you kindly produce the letter you have at home and send it to the Federal Trade Commission?

A. Yes, sir; if I can find it; I am not positive I have it at home.

MR. MILBURN: What do you want done about these things you are asking for from these witnesses? Do you want them sent direct to you?

MR. DALY: Send them direct to Mr. Milburn or Mr. Welch.

MR. MILBURN: Well, notify us whether you can find your letter or not, and, if so, send it to us.

MR. SPIESS: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. You answered "yes" to Mr. Spiess's remark that you were a retailer; you are a wholesaler of magazines, are you not?

A. Yes; I wholesale the Curtis publications.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. But you were a retailer of the "Pictorial Review"?

A. Yes, sir; but I received them direct from the Pictorial Review Company.

A. C. SIMONS, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Shenandoah, Iowa.

Q. How big is Shenandoah?

A. About six thousand.

Q. Are you the agent for the Curtis publications there?

A. Yes, sir.

Q. How long have you been agent?

A. About three years.

Q. What is your business?

A. Drug business.

Q. Do you handle wholesale any other magazines than the Curtis publications?

A. We do not.

Q. Have you ever handled any other magazines than the Curtis publications?

A. Wholesale?

Q. Yes.

A. No, sir.

Q. How do you make your deliveries?

A. To the other dealers by the clerk in my store, and to the retail trade over the town by Curtis boys.

Q. You say the clerk from your store; how does he deliver, on foot?

A. Yes; it is only a few steps away.

Q. You have no equipment for delivery like a wagon or automobile?

A. No, sir.

Q. How many deliveries—you make deliveries also through boys?

A. Yes, sir.

Q. How many boys do you sell to?

A. I think it is either twelve or fourteen at the present time.

Q. How did you obtain those boys? Were any of them turned over to you?

A. Four were turned over to me when the agency came into my hands.

Q. About three years ago?

A. Yes, sir.

Q. And you have since increased that number up to fourteen?

A. Yes, sir.

Q. What assistance have you received from the Curtis Company in maintaining that force of boys?

A. The best assistance I have had has been through the district superintendent.

Q. What has he done?

A. He has met with me on several occasions and has had meetings with the boys in the rear of the store, and has put on two different local sales contests.

Q. How has the Curtis Publishing Company or its traveling representatives assisted in obtaining boys in the first instance?

A. Through advertising for the boys and through other offers for premiums and bonuses, making a little bank account to start with——

Q. Have you anything to do with the parents of the boys in the way of keeping in touch with them?

A. The best boys I have were obtained by personal consultation with their parents.

Q. What are those boys—mostly school boys?

A. Mostly school boys; yes, sir.

Q. Do they sell anything else except the Curtis publications?

A. None but one; he sells newspapers.

Q. Now, what have you done with respect to instructing these boys? Had any meetings or anything of that sort?

A. I have just a little salesman meeting about once a month. I conduct it myself in a room I have at the rear of the store, and on three or four occasions I have had the assistance of our district superintendent.

Q. And when you first take a boy on, do you give him any instructions?

A. I follow the instructions of the Curtis Company in their little booklet entitled "How to Sell the Post." I follow that as far as I can.

Q. You take that up individually with each boy?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Do you give each "Post" boy a pamphlet on how to sell the "Post"?

A. Yes, sir.

Q. You say the agent has come there three or four times?

A. Yes, sir.

Q. During what period?

A. Well, I should say he is there every two or three months.

Q. When was he there the last time?

A. You mean for inspection of the boys, or just for a call on me?

Q. Inspection of the boys.

A. I would say about—I do not remember the date exactly, but I think he met my boys along about the first of March, or somewhere near the first of March.

Q. Of this year?

A. Yes, sir.

Q. Were all the boys who are with you now with you then?

A. No, sir; one was not.

Q. How long have you had these boys?

A. Five of them since I have had the agency, and the balance have been with me two years, and some only six months. Six months would be the least any of them has been there.

Q. What newspapers are sold in your town?

A. The "Chicago Examiner"—the "Chicago Record-Examiner" now—the "Chicago Tribune," the "St. Louis Post-Dispatch," the "Globe-Democrat"—three papers from St. Louis—and the Des Moines and Omaha papers.

Q. Who is the wholesale agent for those papers?

A. There is no wholesale agent in Shenandoah.

Q. How are those papers distributed to the retailers?

A. We get them all through the mails.

Q. You are the only wholesale of any periodicals, magazines or newspapers?

A. Yes, sir.

Q. Were you ever approached to handle the "Pictorial Review"?

A. Not in a wholesale way.

MR. SPIESS: That is all.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. You were asked if you were the only wholesaler of newspapers, periodicals and magazines; you do not wholesale anything except the Curtis publications?

A. That is all.

Q. Nothing else?

A. No, sir.

MR. DALY: You are under the new contract?

THE WITNESS: Yes, sir.

MR. DALY: That is all.

EXAMINER MOORE: We will take a recess now until 2 o'clock.

(Whereupon, at 12.30 o'clock P. M., a recess was taken until 2 o'clock P. M. of the same day.)

After recess.

The hearing was resumed at 2 o'clock P. M., pursuant to the taking of the noon recess.

HENRY C. SIEGHOLD, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Berkley, California.

Q. Are you the Curtis agent there?

A. I am.

Q. How long have you been the district agent there?

A. Since 1908 or 1909—1909.

Q. Were you connected with the Curtis Publishing Company in any way before that?

A. I was a Curtis boy for three years.

Q. What business have you in addition to this agency?

A. Cigar, magazine and soft drink store.

Q. What do you handle in the way of magazines?

A. All the most popular magazines.

Q. How do you handle them—with the dealers?

A. No, sir; just retail.

Q. You retail the magazines?

A. Yes, sir.

Q. But you wholesale what magazines?

A. Just the Curtis publications.

Q. How do you deliver them to the dealers?

A. By machines.

Q. And you also have a staff of boys, do you not?

A. Yes, sir.

Q. Is there any other magazine wholesaler in Berkeley?

A. No one who has an office in Berkeley.

Q. Will you explain what you refer to when you say that?

A. The Egbert Brothers, in Oakland, deliver magazines.

Q. They cover the entire territory?

A. Yes, sir.

Q. And they are the big magazine wholesalers in Oakland?

A. Yes, sir.

Q. How many boys have you?

A. Approximately 140.

Q. What do they handle?

A. Nothing but the Curtis publications outside of fifteen who sell papers. I think fifteen is about it.

Q. When you took over the agency in 1909, were any boys turned over to you?

A. Yes, sir.

Q. How many?

A. I think sixty or seventy.

Q. And in augmenting that force, have you received the assistance of the Curtis Publishing Company?

A. Yes, sir.

Q. What have they done in the way of aiding you?

A. Mr. Turner, the road man in that section, has the privilege of using the Y. M. C. A., or, rather, one of the rooms in the Y. M. C. A., for the purpose of holding meetings in promotive work for the boys. Not only that, but the Curtis Publishing Company sends personal letters to the boys every so often to keep them interested in their work, and that helps them to increase their magazine customers.

Q. At these meetings have you given the boys instruction in salesmanship and so forth?

A. We have the boys as a rule get up and tell their different experiences and naturally other boys get the benefit of their experiences.

Q. Do you devote some of your personal time to it?

A. Yes, sir; a great deal.

Q. Have any of these boys received prizes?

A. Yes, sir; a great many. The largest was when the Curtis Publishing Company ran a pony and cart contest. One of the boys won a pony and a cart, and one of the boys also won a $100 or $75 check, and since that another boy, I think, has received a $100 check, and numerous smaller ones.

Q. And you have received extra compensation as the circulation increased?

A. I have.

Q. In the way of premiums or bonuses, etc.?

A. Yes, sir.

Q. Has any other magazine ever tried to get you to wholesale their magazines—any other publisher?

A. Only the "Collier's" man.

Q. Did you take it?

A. No, sir.

Q. Why not?

A. I was not interested in it.

Q. You mean you did not want to devote time to it?

A. I thought it would take up too much of my time for the returns I would get from it.

Q. How big is Berkeley?

A. They claim, I think, about 65,000.

Q. When you were a boy you won a trip yourself, did you not?

A. Yes, sir; that is really what started me to get interested in the Curtis work—winning this prize. I won a trip to Washington, D. C., and all my expenses paid, and besides two other Curtis boys won that trip also. There were three of us who went.

Q. Are you under the new contract?

A. Yes, sir.

Q. Where do these boys distribute their papers, mainly?

A. I just do not understand the question.

Q. Have they fixed, permanent customers?

A. I would say ninety per cent. of my boys have regular customers.

Q. And do they distribute around the residential district?

A. They take in all of Berkeley.

Q. Is that staff of boys a fairly permanent one?

A. Yes, sir; from time to time new boys will start in and keep on the work, and after a month or two some of the boys will drop out, but still some will continue

two or three years. Some will continue until they outgrow it.

Q. How many of them will stay—what proportion will stay with you a year?

A. Twenty-five to thirty per cent.

Q. Some will stay longer than that?

A. Yes, sir; some will stay longer than that.

Q. You report on these boys?

A. Every week on the boys and once a month on the newsdealers.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When did you win this prize, this trip to Washington, D. C.?

A. In 1908, during the time Taft was inaugurated.

Q. How long had you been a Curtis boy before you won this prize?

A. Three years; since 1906.

Q. I think you testified that winning this prize was what made you take a great interest in the Curtis publications.

A. It was.

Q. You did not take a great interest in them before that?

A. I did not—not a great deal.

Q. You had been coached a great deal during those three years, had you not?

A. Not a great deal at that time.

Q. Do you know why you were not?

A. No, sir; I do not. I do not think at that time they coached the boys as well as they do now.

Q. They did some coaching, did they not?

A. They offered premiums, or, rather, contests running all the time.

Q. Did the wholesale agent of the Curtis Publishing Company instruct the boys during that period?

A. No; I was a little different from other boys that had taken up the work; I took it up because I really needed the money. I was in it for the profit I got out of it. I was selling newspapers and only handled them along with the newspapers for what I could get out of them. I did not attempt to get customers until later on. Neither did I take a great deal of interest in the contests they were running. It was only until the big contests started that I began to study the Curtis work, and the Curtis system, and three of us boys worked quite hard on it quite a while, and I became very familiar with the Curtis people and after arriving back I wished to continue with them in a larger capacity. The agent, at that time, was either outgrowing it or losing interest in it, and I made an arrangement by which I got the agency, with the consent of the Curtis Publishing Company.

Q. Did the agent do any coaching at that time?

A. I do not really remember; it was quite a while ago. I could not say that he coached me.

Q. Did the roadman of the Curtis Publishing Company coach the boys at that time?

A. They had a different method, as nearly as I can recall it, at that time. They used to send a roadman over and take a new boy, or a boy who did not have many customers, and go out with that boy and get him customers. The first part of the time I had the agency they were using that method. I would get a boy and the roadman would go along with that boy and gather up new customers, which would amount to about ten or fifteen a day, and in that way he was getting the boy a bit of business on which to build up, and the boy that had only five or six or eight copies—by getting him more customers he took more

interest in the business. It is really a business with every boy that sells the magazines.

Q. That was before you became a district agent?

A. Just at the time I became the district agent.

Q. Did the roadman come around and instruct the boys before you were district agent?

A. I do not really know.

Q. Were you instructed that way?

A. I was not; no, sir.

Q. When this boy won that prize of a pony and cart—when was that?

A. As nearly as I can remember, that was three or four years ago.

Q. What did the boy have to do to win that?

A. He had to increase his number of copies over any other boy in his class. As I remember it, it was sectioned off into different classes, and we naturally were in the class with the towns of a population of 50,000 or under; the next class would be from 50,000 up to—I do not remember the exact figures on it.

Q. How much of an increase did he have to show in his sales of the Curtis magazines to win that pony and cart?

A. A greater increase than any other boy in his class.

Q. Over the United States?

A. Over the United States.

Q. So this prize was offered for the increase in the circulation of the Curtis publications?

A. Yes, sir.

Q. Is that also true of boys who got the checks of $100, or $75, or $175?

A. Yes, sir.

Q. When was that?

A. About a year and a half ago was the last one.

Q. That was for increased circulation?

A. Yes, sir.

Q. You said you declined to accept the Collier's agency because there was not enough money in it for you, for the time you would have to devote to it?

A. Yes, sir.

Q. It was not a paying proposition for one magazine?

A. It really did not pay me to take on "Collier's."

Q. Did you know what the circulation of "Collier's" was in Berkeley at that time?

A. At that time it was only about 150 copies in Berkeley; since that time the number has increased materially.

Q. Have you tried to get the "Collier's" agency since the war started?

A. I do not remember trying to get the "Collier's" agency.

Q. But at any rate, 150 "Collier's Weekly" would not pay you to handle it?

A. No, sir; as I understand, the profit was one-half a cent, and that would be seventy-five cents, and I could not deliver "Collier's" in Berkeley at less than three or four dollars by machine.

Q. One hundred and fifty copies?

A. Yes, sir. Berkeley is very much spread out, and it takes in a lot of territory, and their stores are very far apart, and it is impossible to deliver them by foot, and almost impossible to deliver them on a wheel. You need a machine. It would take the same expense to deliver 150 as it would to deliver 1000.

Q. It would also take the same time to make out the records and remittances?

A. Yes, sir; but I did not inquire much into their methods of doing business, because I was not interested.

Q. How much time do you devote in your deliveries of "The Saturday Evening Post"?

A. At least two full days a week.

Q. What is your circulation now?

A. Twenty-four hundred.

Q. What is the circulation of "The Ladies' Home Journal"?

A. One thousand five hundred.

Q. How many boys have you?

A. Approximately one hundred and forty.

Q. What proportion of your "Saturday Evening Posts" is sold through boys?

A. Well, I would say the boys sell more "Posts" than my newsdealers do.

Q. What proportion is that?

A. Well, I would say maybe they would sell three-fifths and the newsdealers two-fifths, or perhaps it will run to two-thirds as against one-third.

Q. And "The Ladies' Home Journal"?

A. As to "The Ladies' Home Journal," the newsdealers sell more than the boys.

Q. What proportion?

A. I should say four to one.

Q. How often would the Curtis Publishing Company advertise for boys in your city—how often have they advertised for boys in your city, in the last two years?

A. Well, they are continuously advertising for boys in their own magazines and every year they run ads through the local papers applying for boys.

Q. For how long?

A. For three days—three weeks, one issue per week, one advertisement a week.

Q. How often does the roadman come through and help you in getting boys?

A. Very often. I live right near the office, and he is there very often—sometimes he comes once a week and sometimes once a month.

Q. Does he always get new boys?

A. He either helps the boys or gets new boys. Usually he comes along with some new contest.

Q. When the Curtis Publishing Company advertises for boys, about how many will you get?

A. Very often we will have a boy come in who has received a card from the Curtis Publishing Company entitling him to five free copies of the "Post." We take his name and give him the "Posts," but do not report him for about two weeks. If he comes in for another week's supply and he stays for another week, the Curtis Publishing Company sends him another card entitling him to five free copies of "The Country Gentleman," and some time later on another card entitling him to five free copies of "The Ladies' Home Journal."

Q. How many times in 1917 did they send out cards to boys?

A. As I understand it, for a long while every boy that answered their advertisement was sent all the supplies, etc., from their Philadelphia or San Francisco office.

Q. Do you know how many times they sent cards?

A. You mean how many boys?

Q. How many periods during the year did they send out these cards?

A. I think it was a permanent thing for a long while; I do not know whether it is in force or not now.

Q. How many boys have you gotten in the last year by your own efforts?

A. Well, now, I really cannot say that I went out and got boys, but I have made boys stick and I have helped them increase their routes so as to be big enough to be of advantage to them in selling; but as to going out and getting new boys, I have not gotten any that I know of.

Q. It is desirable to get as many boys as you possibly can?

A. Well, it is and it is not. At the present time, I have about 140 boys, and it is more than I need. The last time the Curtis people ran their advertisements through the papers I tried to cancel them because I did not want more boys at that time. I could not supply them with copies. I did not have enough copies to supply the boys I already had. The territory is well covered in every section, and I really did not need more boys at the time—I really do not need them now.

Q. How long has this territory been well covered?

A. Well, I would say three or four years.

Q. Despite that, they have still carried on these offers of premiums and bonuses to the boys?

A. They have; yes, sir.

Q. You say fifteen of these boys sell newspapers?

A. I say fifteen, and I think it is about that—I think I am putting it a little high.

Q. Do you report them as Curtis boys?

A. I do.

Q. How do you know it does not exceed fifteen boys?

A. I am just using my own judgment.

Q. Just guessing at it?

A. Yes, sir.

Q. You do not know whether the other 125 boys sell newspapers or not, do you?

A. I do not.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. They do not get their papers from you?

A. No, sir.

Q. You say you do not know whether the 120 other boys sell newspapers; have you ever seen any of them selling newspapers?

A. No; that is why I drew the conclusion that there

were fifteen selling newspapers, because I just saw half a dozen selling and I figure that fifteen would be putting it rather high.

Q. As far as your knowledge goes, without being absolutely accurate, you are of the opinion that the others do not sell them?

A. Yes, sir.

Q. The premiums operate to make a boy continue selling, as well as to start them?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. You run an account with these retail dealers?

A. Some dealers I only submit a bill once a month —the largest ones—and the others I collect as I deliver the copies.

Q. Do you sell the Curtis magazines to the boys?

A. I do not just know what you mean.

Q. Do they pay you as they receive them?

A. Yes, sir.

Q. Not on a commission basis?

A. No, sir.

MR. SPIESS: That is all.

By MR. MILBURN:

Q. You trust a retailer in your town if he is good?

A. Certainly.

Q. And you do that on your own risk?

A. Yes, sir; not only stores, but often the boys will come in without their money and ask to let it go over till the next week and I do it gladly and willingly.

Q. Just like any other business?

A. Yes, sir.

By MR. SPIESS:

Q. You are under the new contract?

A. Yes, sir.

Q. Has your bond been increased?

A. Yes, sir.

Q. And the increase covers the amount that you used to remit formerly under the old contract?

A. It is just about the same.

Q. Do you keep any money on hand with the Curtis Publishing Company outside of your cash bond?

A. I do not.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

MISS MARGARET GOODRICH, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Miss Goodrich, where do you live?

A. Topeka, Kansas.

Q. Are you the Curtis District Agent there?

A. I am.

Q. How long have you been the agent there?

A. Since February, 1910.

Q. Did you begin the wholesaling business with the Curtis papers?

A. Yes, sir.

Q. And you have recently taken on some other magazines?

A. Yes, sir.

Q. What have you taken on?

A. The Hearst's publications, and the "Midweek Pictorial."

Q. When did you take them on?

A. Within the last few years—"Midweek Pictorial" within the last year. It is a supplement to the "New York Times."

Q. Before that, who wholesaled the Hearst papers in Topeka?

A. Ralph Wilson.

Q. Before the Hearst papers were wholesaled in Topeka, you were the only magazine wholesalers, were you not?

A. Yes, sir.

Q. And only wholesaled the Curtis publications at that time?

A. That is right.

Q. How many dealers do you serve?

A. Thirty-three.

Q. How do you make deliveries to them?

A. By automobile.

Q. How many boys have you?

A. Between 160 and 170.

Q. And where do those boys deliver—in the city principally?

A. In the entire city.

Q. They cover the entire residential districts?

A. Yes, sir; and offices and shops.

Q. They are school boys, I assume?

A. Yes, sir; all of them.

Q. And you have taken considerable interest in their development, I know.

A. Yes, sir.

Q. What work have you done with them—just briefly?

A. I do not know as I could tell you briefly.

Q. I mean, give us an outline of your method of procedure with them—you hold meetings, etc.?

A. Yes, sir; we have meetings at least once a month at the Y. M. C. A., and Mr. McCarthy comes over and gives our boys salesmanship talks, and then I have my boys organized into three teams, and those different teams have their different meetings, sometimes once a week and sometimes once a month, and

we have promotive work in different ways; in the first place, a boy is taught the contents of the magazines and he is taught how to approach people and he has —well, I do not know just how to explain it.

Q. Just general instructions?

A. Yes, sir.

Q. What do these boys handle—anything besides the Curtis papers?

A. Just the Curtis publications.

Q. Have you been asked to handle any magazines other than the ones you have?

A. I have.

Q. And were you asked to handle the Crowell publications?

A. I was.

Q. Did you take them on?

A. No, sir; I did not.

Q. How were you asked? Describe the circumstances of that conversation.

A. I happened to be out of my office when the representative came in and looked around and saw the bulletins. I issue bulletins on blackboards or painted on cardboards, giving the principal features that appear in the principal paper we want to push, and I also post the boys' standing in a local contest. The record a boy makes is registered on the board. The janitor was not there at the time and this gentleman availed himself of the opportunity to go over the promotive work, and he called me up and asked me to let him see me. He said I had such a good organization it was not necessary to go further, and that he had a good proposition and would like to leave it with me. I said I could not take on the other publications without the consent of the Curtis Publishing Company, and, besides, I did not want to use the boy organization because it was strictly a Curtis organization. If I

took on some other magazine, it would not be strictly a Curtis organization.

Q. He wanted to use your boys?

A. Yes, sir; he said it was—he said the organization was right there and it would not be much work for me to take them on.

Q. Was that the end?

A. No, sir; that was not the end.

MR. DALY: When was that?

THE WITNESS: That was within two months—I do not think it is much more than two months—somewhere around two months. He has been in the city four times, and I have seen him every time. The next to the last time he said there was nothing else to do; he was just going to hand it to me and I had to take it. The next time he had it placed with another boy.

By MR. MILBURN:

Q. In his conversations with you did he refer to this proceeding at all?

A. Yes, sir.

Q. The record of this proceeding?

A. He showed me a copy of the Federal Court procedure—a procedure of some description, I do not know the terms of it—whereby they permitted other district agents to take "Every Week."

Q. He made a statement to you, did he not, that they did permit other agents to handle that publication?

A. He named at least half a dozen others that took it, and he showed me this letter. It was just a copy of another letter; it was on a plain heading—not on a letterhead.

Q. It contained an abstract from this record—this court proceeding?

A. It was supposed to be.

Q. Were you asked, at any other time, to handle the "Pictorial Review"?

A. Yes, sir; indirectly.

Q. And you turned it down?

A. Yes, sir.

Q. And there was nothing further on that?

A. No, sir.

Q. How about bonuses or prizes—have your boys received bonuses or prizes?

A. Yes, sir; one received $250 and another $100, and when there is a special offer of a dollar a week for a boy selling the most numbers—probably two years back there was always from four to ten dollars a month that came to the Topeka boys. I think it has been in one year there was about $150 that came to the boys in that way.

Q. Just in that way?

A. Yes, sir.

Q. And you have received, as you have gone along, bonuses, have you not?

A. Yes, sir.

Q. And that is a material element in your business, as far as you are concerned?

A. Yes, sir; and the animal offer—the boys have received all the way from ten to fifteen dollars—an offer of a dog or a pig and they have taken the money.

Q. You are intimate with a number of the parents of these boys?

A. Yes; we have had parents' meetings once a month. The parents are interested in what the plan is doing for the boys; in fact, the whole game with me is a vocational plan, anyhow, and what it is doing for the boy, and I am not only getting these boys but the parents and teachers at the schools. I had one high school teacher who came to me and asked for viewpoints about salesmanship. Salesmanship is taught in the high school at home, and the lesson that day was

"Selling 'Saturday Evening Posts.'" I had another teacher who came and asked us what we could do for a boy who was late at school. I said that should not be, and I just told her to announce that a boy who reported late at school would not receive his copies until after school. She has spoken to me several times since and she said that boy has never been late since.

Q. You are in this because of your great personal interest in this vocational work?

A. I surely am.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What other business are you in besides the magazine business?

A. I am church clerk and financial secretary of the First Congregational Church, and also keep house for my sister.

Q. You do not do anything else?

A. No, sir.

Q. How much time do you devote to this business?

A. From six to seven-thirty every night, not counting the meetings we have at the Y. M. C. A., not counting the meetings of boys, and not counting the three divisions of team work and clerical work. There is hardly a day I do not put in a couple or three hours, besides the full day on sales day.

Q. How much time do you put on the Hearst publications?

A. I deliver them right from the post office and re-distribute them as one dealer is overstocked or another is understocked.

Q. The time you devote to the Hearst publications and the Curtis publications would leave you enough time to handle the "Pictorial Review" or the Crowell

publications, would it not, in addition to your Curtis work?

A. Yes, sir.

Q. But you declined to handle it because the Curtis company would not give you permission?

A. I am under a contract—it is not a business that I desire to take along. It would take a great deal of the boy organization, anyway; it would take from it, and I do not see that I would gain anything by it.

Q. Could you not get other boys besides the Curtis boys?

A. In a town of 45,000 or more, with 170 boys, I do not know where I would get another 70.

Q. How many "Saturday Evening Posts" do you handle?

A. At the present time, 1975.

Q. And how many of those are sold through the boys?

A. The dealers sell between three and four hundred—it varies—and the rest are sold by the boys.

Q. How many "Journals" do you sell?

A. In January I sold 2000. This month I have sold 1700, all I had.

Q. How many were sold by the boys?

A. All sold by the boys but 275, because I could not get any more for the dealers.

Q. Did the dealers call for any more?

A. Yes, sir; they are out now.

Q. How many dealers are there in that town?

A. Thirty-three.

Q. You supplied the dealers first?

A. No, sir; the boys come after their papers and the dealers begin as soon as they open their supplies. I have a man who delivers for me to the dealers, and I run the boy business myself.

Q. I know, but do the boys get theirs first—the boys get theirs on Thursday, do they not?

A. Yes, sir.

Q. And when do the dealers get theirs?

A. Thursday.

Q. When do you deliver the boys' copies?

A. On the morning when they come, or after school.

Q. When do you deliver to the dealers?

A. Thursday morning.

Q. Explain how the boys got theirs and the dealers did not.

A. I will explain that: I make the first instalment to the dealers, and then the boys have theirs before the dealers. The dealer has the advantage in that he can sell longer than the boys; for instance, the boy must have his returns in by Saturday night on the "Posts." So I re-distribute the "Posts" back—what the boys do not sell I re-distribute back to the dealers.

Q. You sell these magazines direct to the boys for cash?

A. Yes, sir; on delivery.

Q. Do you have accounts with your dealers?

A. I do not.

Q. They pay you cash?

A. On delivery, too.

Q. How did the "Pictorial Review" approach you?

A. Ralph Wilson had it—I really got the position for Ralph Wilson—and he did not want it, and they said they would turn it to me if I wanted it.

Q. Who would return it?

A. Wilson called me up and asked if I wanted it; that he would turn it my way if I wanted it.

Q. What did Wilson do?

A. He did not take it, he was the Hearst agent for the time being, and he was given the privilege of taking on the "Pictorial" if he wanted to.

Q. The Hearst people did that?

A. No, sir; the "Pictorial Review" people, I suppose.

Q. Who handles the "Pictorial Review" today?

A. Theodore Patterson.

Q. Has he taken on any other magazines?

A. Yes, sir; I saw him the other day and he had fifteen.

Q. Was he wholesaling any other magazine before the "Pictorial" got him?

A. No; the "Pictorial" was the first he took on. I believe that is right—as near as I can remember.

Q. I believe you testified that at one time you were the only wholesale distributor there.

A. At one time I was.

Q. How long ago has that been?

A. 1910—if there was any before that I do not know anything about it.

Q. After that, when did one come into Topeka—after 1910, besides you?

A. It is kind of hard to remember. I was offered the Hearst publications seven times and I took it on the eighth time myself, and I think the boys handled it and they changed about five or six times in a year or two, and so I really do not know how far back it was.

Q. How many wholesalers were there in 1917?

A. You mean magazines or newspapers, too?

Q. Magazines.

A. 1917, just the two of us, as far as I know.

Q. What two were those?

A. Theodore Patterson and myself. The Capital Candy Store, they have handled "Collier's" direct from their candy store.

Q. The record shows that the "Pictorial Review" did not go independent of the American News Company until the 10th of April, 1917.

A. That is when it was that Patterson took it, then.

Q. Before that you were the only wholesaler there of magazines?

A. Yes, sir; until the Hearst publications came there. I do not know how long they have been in Topeka.

Q. Who was the wholesaler of Hearst publications in January, 1917?

A. I was.

Q. There was no other wholesaler of Hearsts in 1917?

A. 1917—I see. I thought you meant in the history of it.

Q. How many wholesalers of newspapers were there there?

A. Well, one that carries the Kansas City papers and the St. Louis papers and the Chicago papers.

Q. One wholesaler covers them all?

A. No; three different ones, as far as I know.

Q. Are those the only newspaper wholesalers?

A. As far as I know.

Q. Have they any boys?

A. To deliver like a family route, you know. There are no boys on the streets of Topeka selling a foreign paper at all.

Q. Do any of your boys sell those papers?

A. Yes, sir.

Q. How many?

A. I have four.

Q. Only four?

A. Yes, sir; I did have six, but two quit.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Theodore Patterson began the magazine wholesale business with the "Pictorial Review"?

A. I think that was the first magazine he took on.

Q. And he has now fifteen?

A. Yes, sir; the Warner string, they were taken on the last month or two months.

Q. Numerically he is now the biggest magazine wholesaler in Topeka?

A. Yes, sir; I saw him a couple of weeks ago and he said he had fifteen magazines now.

THEODORA MOOREHEAD, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Miss Moorehead?

A. Alhambra, California.

Q. You are the Curtis district agent there, are you not?

A. Yes, sir.

Q. And you cover some towns nearby?

A. Yes, sir.

Q. Who had the agency before you?

A. My brother.

Q. How did he happen to give it up?

A. He went to Stamford and had to give it up.

Q. You took it on when he left?

A. Yes, sir.

Q. Whate date was that?

A. I took it in December, 1915.

Q. To these outside towns where you deliver, you have the magazines shipped direct from Philadelphia to your sub-agents?

A. Yes, sir.

Q. Do you report all their boys as well as your boys?

A. Yes, sir.

Q. How many boys do you report every week?

A. I think I have twenty-seven.

A. All told?

A. Yes, sir.

Q. How many of those are in Alhambra?

A. Eighteen.

Q. What do these eighteen boys handle?

A. Just Curtis publications.

Q. And you only wholesale Curtis publications, is that correct?

A. Yes, sir.

Q. And have you been aided by the Curtis Company in keeping this organization going? Keeping the boys in line?

A. Yes, sir.

Q. What has the Curtis roadman done? Has he held meetings in your neighborhood?

A. Yes; whenever Mr. Green came down—we have meetings every Thursday when the boys come for the papers.

Q. You know them and keep them up to the mark?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Who else wholesales magazines in your vicinity, in your district?

A. Why, in Alhambra we have the "Los Angeles Examiner" and "Times"—no magazines—the Hearst publications are handled by the "Examiner" man.

Q. The "Examiner" handles their publications?

A. Yes, sir.

Q. How long have they handled "Hearst's"? Do you know?

A. No, sir; I could not say.

Q. Who was Walter Countz?

A. The Los Angeles "Examiner" and Hearst agent.

Q. You do not know how long he has handled them?

A. No, sir; I do not think he has been there over a year or two.

Q. You have never handled anything except the Curtis magazines?

A. No, sir.

Q. So before he undertook the wholesale business, you were the only magazine wholesaler there?

A. As far as I know.

Q. And you handled only the Curtis publications?

A. Yes, sir.

Q. They were the only publishing house that used that method of distribution in your vicinity?

A. Yes, sir.

Q. Have these boys received bonuses or premiums?

A. I do not believe any of them have.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is the circulation of "The Saturday Evening Post" in your town?

A. In my town, or the outlying districts?

Q. Altogether.

A. I sell something over six hundred.

Q. How many "Ladies' Home Journals"?

A. About six hundred.

Q. How many of the "Posts" do you sell through the boys?

A. Just about half, I think.

Q. How many of the "Journals"?

A. Well, I should say about a third.

Q. How much time do you devote personally to the sale and distribution of "The Saturday Evening Posts"?

A. Well, I devote practically all day Thursday—all day Thursday and on the afternoon of Friday the boys generally come back for more magazines, and I have my bills to make out.

Q. Do you sell any other magazines at retail?

A. No, sir.

Q. Do you do any other kind of business?

A. No, sir.

Q. You have plenty of time to handle other magazines, if you so desired?

A. I suppose so; yes.

Q. Were you ever asked to handle any other magazines?

A. No, sir.

Q. How many retailers are there in Alhambra?

A. Only two; I think fourteen in all in the district as a whole.

Q. Do you distribute to those fourteen in all from your Alhambra office?

A. No, sir; they are sent direct to them from the office in Philadelphia.

Q. And you make the collections?

A. Yes, sir.

Q. Do you do that personally?

A. They send the money to me personally.

Q. You do not get around personally to all these retailers?

A. Yes, sir; every once in a while.

Q. About how often?

A. I try to see them about every three months or so.

Q. Are you under the new contract?

A. Yes, sir.

Q. Your cash bond has been increased?

A. Yes, sir.

Q. And the increase practically covers what you remitted formerly under the old contract, in advance?

A. Yes, sir.

Q. Are you allowed full return privilege?

A. Yes, sir.

Q. Has your quota been increased or decreased since you took on the new contract?

A. I believe it is the same; I do not know.

Q. You do not know that, do you?

A. No, sir.

MR. SPIESS: That is all.

MR. MILBURN: That is all.

ERIC NELSON, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Nelson?

A. Omaha, Nebraska.

Q. How big is Omaha?

A. About 175,000, I think it is.

Q. Are you the district agent for the Curtis Publishing Company?

A. Yes, sir.

Q. At Omaha?

A. Yes, sir.

Q. How long have you been the Curtis agent there?

A. About sixteen years.

Q. You took it on about 1902?

A. Yes, sir; about 1902.

Q. What did you handle first? What publication was it that you handled for the Curtis Publishing Company in 1902?

A. "Saturday Evening Post."

Q. That was the only one you had in the beginning?

A. Yes, sir.

Q. And did you distribute them to the boys—through boys, or through the dealers?

A. Just through the boys.

Q. And you did not take on "The Ladies' Home Journal" until about 1910?

A. Well, it was some time later; I do not just remember what time it was.

Q. What do you handle now, Mr. Nelson, besides the Curtis publications, wholesale?

A. You mean magazines?

Q. Yes; magazines.

A. I handle the Hearst group of magazines, the "Munsey" and "Motion Pictures," and the "Motion Picture Classic."

Q. How long have you had "Hearst's"?

A. I do not just remember, but it seems to me something like five years—at least, I got them when they first came out West.

Q. And "Collier's" about a couple of years?

A. Yes, sir.

Q. You took all those on long after you started with the Curtis Publishing Company's publications?

A. Yes, sir.

Q. Do you distribute to boys and dealers, both, in Omaha?

A. Yes, sir.

Q. How many boys do you use?

A. About 135.

Q. Are they school boys or street boys, or what kind of boys?

A. These 135 are all school boys; that is what we call the Curtis boys.

Q. Do you co-operate with the Curtis company's traveling representative in holding meetings with the boys, instructing them and taking general supervision over their work?

A. Yes, sir.

Q. Have these boys received prizes from time to time?

A. Yes, sir.

Q. Any prizes of a substantial amount that you can recall?

A. Yes, sir; I have one boy that won a trip for him and his mother to Washington, for the inauguration of President Wilson, and also at the same time won a pony and cart and harness; the pony outfit.

Q. Then I suppose the other boys have earned similar prizes in smaller amounts?

A. Yes, sir.

Q. How about any bonuses that you have earned?

A. I have won some bonuses for myself.

Q. What was the size of those?

A. The largest one was a check for $500.

Q. Can you approximate the total amount that you have received in bonuses?

A. You mean since my connection with the Curtis Company?

Q. Yes.

A. I would estimate somewhere about $2000.

Q. These boys that you have spoken of as Curtis boys—do they handle anything else but Curtis publications?

A. Outside of possible six or eight, they handle nothing else but Curtis magazines.

Q. Is there any other wholesaler of magazines in Omaha?

A. Yes, sir.

Q. What is his name?

A. J. F. McLaughlin, and the Omaha News Company.

Q. The Omaha News Company is a branch of the American News Company?

A. Yes, sir.

Q. And McLaughlin handles what at the present time?

A. I think the first one was "Pearson's Magazine."

Q. Do you know how long ago he started the wholesaling of "Pearson's Magazine"?

A. That has been a year ago, I think; and the next was "Pictorial," "Literary Digest," and then the Warner publications, and another one called the "Y. M. C. A. Men"—that was the last one he wholesaled.

Q. Has McLaughlin been in business for a long time in Omaha?

A. For a considerable number of years; yes, sir.

Q. In what business has he been engaged in for a number of years?

A. The retail news business.

Q. He retails magazines?

A. Yes, sir.

Q. Were you asked to wholesale "Every Week"?

A. Yes, sir.

Q. Will you state what took place in that connection?

A. Well, the substance of their interview with me was that they wanted to get in with the boy organization, which I would not sanction, and that seemed to be about all there was to it.

Q. Was anything said to you about the Curtis Publishing Company having consented to its agents wholesaling "Every Week"?

A. Yes, sir.

Q. What was said?

A. They mentioned some agents in the eastern part of the country that were selling "Every Week" with the permission of the Curtis Publishing Company.

Q. Did you receive this letter from the "Every Week Company," this letter dated February, 1916?

A. Yes, sir.

MR. WELSH: We offer this in evidence.

(The letter was thereupon received in evidence and marked by the stenographer, "Respondent's Exhibit No. 31," and the same is as follows:)

RESPONDENT'S EXHIBIT No. 31.

"EVERY WEEK
the great 3¢ weekly
95 Madison Ave., New York
Address all mail to
Sales Department
Box 80, Station F
New York February 24, 1916.
Mr. Eric Nelson,
Omaha, Neb.
Dear Mr. Nelson:

Referring to yours of Feb. 1st, when you were handling EVERY WEEK before, it was a new proposition and I presume did not go as well as you had anticipated.

This is probably due to the fact that we simply placed the agency with you and left you to your own resources in developing it. Now, we are actively ready to work with you in getting results.

We will circularize boys for you, sending them cards entitling them to five free copies with which to start work, and we will sample prospective customers for your subagents, furnish you with supplies for your use in handling your agency, in-

cluding bags, etc., authorize you to open a special prize offer to your subagents, include in your agency arrangements a bonus offer for increased sales, in fact, work with you just as closely as possible in making your agency profitable from the start.

You have been in the game long enough to know that we cannot shut off the supply of the News Company, and you also know how easy it is with your organization, to secure orders from the dealers that you serve with other publications.

While the News Company may allow a longer return privilege to the dealers on unsold copies than you will be able to do, this actually means nothing to the dealers, except that they will be carrying books on their shelves long after there is any possibility of selling them. You can handle your deliveries and returns of EVERY WEEK simultaneously with your Post deliveries, as the publication day is now Thursday, and I am sure, that with the plans already worked out, you can within a short time build up a EVERY WEEK business that will be a pleasant surprise to yourself.

I am enclosing a copy of the form of contract, under which our agents work. You will notice that I have altered this to permit full return for the first six weeks, which will give you time to regulate your order so as to keep within the 15% limit on this initial period.

You will note, also, that we do not ask you to contract for any definite number of copies. We will place this agency with you with the understanding that you do with it, as you have done with your other agencies, simply doing the best you can.

Another thing you will notice is that the bond is a personal surety, and requires no cash to be deposited as security.

The enclosed order blank shows you how you will handle your remittance which needs no explanation.

I would suggest that you order a nominal number of copies with which to start, beginning with the March 6th issue. If, after considering the various phases of the work set forth in this letter, you decide to 'hook on,' wire me 'Collect' how many copies you want of the March 6th issue, and I will see that they reach you on time. You will probably be able to use at least 250 to start with.

I will authorize you to offer a special prize of $1.00 each week to the boy, for the first four weeks of your agency, making the biggest increase that week over his preceding week's record. The first week, the dollar will, of course, go to the boy selling the largest number of copies.

I would like mighty well to see you handle EVERY WEEK in Omaha. It is a winner and growing rapidly, and should, under your handling, within a short time become a very valuable asset.

The BONUS OFFER I mentioned will be based on an actual weekly increase in your sales, the bigger increase you can make the larger will be your bonus, of course. On forwarding your contract, please tell me to what figure you think you can increase your sale for the first ten weeks of your agency, and I will make you a bonus offer to cover this period.

In closing, I will say, that EVERY WEEK in Des Moines, Lincoln, and other towns out your way is starting off in great shape and I am sure that under the new plans, Omaha will do even better.

Anticipating with pleasure receipt of your telegram, I am

Sincerely yours,
EVERY WEEK CORPORATION,
H. L. WELKER,
Manager, Sales Department.

HLW/R"

(Enclosure with foregoing letter, printed on yellow sheet:)

ORDER AND REMITTANCE
for
EVERY WEEK
the great 3¢ weekly

PREPAID ORDERS. Your remittance for copies ordered must be in our hands before your copies can be mailed. We cannot give credit.

By ordering on these blanks, mailing your order as shown in the schedule on the reverse hereof, and in one of our envelopes printed in red, you will receive your copies ON TIME. (These blanks and envelopes furnished upon request.) Always enclose full amount necessary to cover copies ordered.

Date 191

EVERY WEEK
Box 80, Station F.
New York.

I enclose herewith ..... for $.....
Send me copies of EVERY WEEK as follows:
.....copies dated ..... at 1½¢ each $.....
.....copies of the next issue.
.....copies weekly thereafter till I change my order.

PREMATURE SELLING

I promise not to sell nor display or permit any copies I distribute, to be sold or displayed

before Thursday in case they reach me before that day.

Name .....

Street Address ..... P. O. Sub. Sta. No. ....

City ..... State .....

INSTRUCTIONS

WHEN TO REMIT. See other side of this blank.

HOW TO REMIT. Remit by P. O. or express money order, draft or check. Don't send coin or currency without registering your letter. You have no way of tracing it if it is lost in transit.

Make all remittances payable to EVERY WEEK. We suggest that you send us a deposit sufficient to cover a number of weeks' copies. This will insure the prompt shipment and receipt of your copies.

SALES DEPARTMENT

Box 80, Station F. EVERY WEEK New York

Enter your order only on this blank. Write about other subjects on a separate piece of paper. More blanks sent on request.

(Over)

(Printed on reverse side of Order Blank:)

DATE TO MAIL YOUR ORDER

Your copies will arrive on time if you will mail your order on this blank in one of our envelopes *not later* than the day specified below.

Orders from the Following States should be Mailed On

THURSDAY

two weeks in *advance of the week of issue*

Athabasca Alberta

Assiniboia British West Indies

British Columbia	Manitoba
Cuba	North West Territory
California	Oregon
Idaho	Saskatchewan
Mexico	Washington

Orders from the Following States Should be Mailed On

SATURDAY

two weeks *preceding the week of issue*

Arizona	Nevada
Montana	Prince Edward Island
New Mexico	Texas
New Brunswick	Utah
Nova Scotia	Wyoming

Orders from the Following States Should be Mailed On

MONDAY

of the week *preceding the week of issue*

Colorado	South Dakota
North Dakota	Oklahoma

Orders from the Following States Should be Mailed On

TUESDAY

of the week *preceding the week of issue*

Arkansas	Louisiana
Alabama	Minnesota
Florida	Mississippi
Georgia	Nebraska
Kansas	Quebec

Orders from the Following States Should be Mailed On

WEDNESDAY

of the week *preceding the week of issue*

Iowa	Ontario
Indiana	Ohio

Illinois	South Carolina
Kentucky	Tennessee
Missouri	Virginia
Michigan	West Virginia
Maine	Wisconsin
North Carolina	

Orders from the Following States Should be Mailed On

SATURDAY

of the week *preceding the week of issue*

Connecticut	New York
Dist. of Columbia	New Jersey
Delaware	Pennsylvania
Massachusetts	Rhode Island
Maryland	Vermont
New Hampshire	

EXAMPLE. If you live in Oregon your order for copies dated January 31, 1916, should be mailed 18 days earlier. If you live in Ohio your order for copies of that date should be mailed 12 days earlier.

This schedule shows the last day on which you can mail your order and have your copies reach by Thursday. It is a great deal better to maintain a deposit with us or at least mail your remittance a day or two ahead of this schedule.

RETURNS

Entire front covers, not in excess of 15% of your total drawings for each week may be returned to us for credit within three weeks of date of issue.

The forwarding charges must be PREPAID and no returns will be credited unless sent as above

and unless a prepaid order was received before the copies were shipped.

Send all returns to

RETURN DESK
EVERY WEEK.
Box 80, Station F. New York.

and be sure to put your name both on the OUTSIDE and INSIDE the package. Notify us when and how shipped and number of each issue sent.

LABELS. Be sure to save the labels from your bundles in case of shortage, late arrival, or poor wrapping. Send the label with your complaint. No adjustment can be made if you fail to do this.

SALES DEP'T. EVERY WEEK NEW YORK

By MR. WELCH:

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. When, Mr. Nelson?

A. "Pictorial Review?"

Q. Yes. Just approximately when was it?

A. Just previously to the time Mr. McLaughlin got it.

Q. About a year ago?

A. Yes, sir.

Q. Who saw you from the "Pictorial Review"?

A. Mr. Rankin.

Q. You knew Mr. Rankin before that, did you not?

A. Yes, sir.

Q. And he called to see you?

A. Yes, sir.

Q. What did he say to you?

A. He came into the office one morning—I would say it was about nine o'clock—and passed the time

of the day, and so forth, and finally said, "I have come to talk business with you; I have something good for you," and I told him that was very kind of him to be so considerate of me, and he told me he was there ready to give me the agency for "Pictorial Review." I told him I was very busy that morning; that I did not have time to talk to him any further and asked him where he was stopping, which he told me, and I told him I would see him at three o'clock in the afternoon.

Q. Let me interrupt you just a moment. Did he say anything in that conversation about any other Curtis district agents handling "Pictorial Review"?

A. Yes, sir.

Q. What did he say?

A. He said Baron & Molaski, of St. Louis, and Mr. Katze, of Kansas City, had taken the agency for the "Pictorial Review" with the consent of the Curtis Publishing Company.

Q. Go ahead. What did you do and what did you say?

A. Well, he then, after I made the appointment with him for the afternoon or three o'clock—I immediately got busy to see how much money there was in the proposition, as at the time we had about all we could do to take care of the business we had. My truck was loaded with my deliveries at the time and I figured that it would incur an extra expense to take on "Pictorial Review."

Q. Was any one present at this interview with Mr. Rankin?

A. Yes, sir.

Q. Who was it?

A. H. W. Marks.

Q. He is one of the representatives of the Curtis Publishing Company?

A. Yes, sir.

Q. What did you do with respect to Rankin's statement that Katze and Baron & Molaski had taken on the "Pictorial Review" with the consent of the Curtis Publishing Company?

A. I immediately wired the Curtis Publishing Company to verify his statement, and they wired me back within a couple of hours or so that these statements were not correct.

Q. Then what did you do?

A. About three o'clock in the afternoon I called Mr. Rankin on the telephone at the hotel he mentioned that he was stopping at, and told him that I was not going to see him; that I had considered his proposition from different angles and I did not see where it would be profitable to me to handle it, and therefore would not care to consider his offer.

Q. What did Mr. Rankin say to you then?

A. Well, the poor fellow went up in the air.

Q. I asked what he said; I did not ask what he did.

A. I remember his expression very plainly. He said, "My God, man, you will get me in bad with my office," and that he had told his office that everything was lovely and that I would come up at three o'clock and fix up the contract. I told him I had given him no such authority and had not intimated in any way that I knew of that I would accept his proposition and that if he had wired his company to that effect it was on his own initiative, and if he got in bad I felt sorry for him, but I could not help it.

Q. That was about the end of the conversation?

A. Well, yes — being on the 'phone and he was through.

Q. You did not take on the "Pictorial"?

A. No, sir.

Q. I wish you would look at this letter dated April

6, 1917, from Mr. W. J. McMurry, and state if you received the original of which that is a copy, from Mr. McMurry, of the "Pictorial Review."

A. This is the letter in regard to——

Q. I just asked if you received the original.

A. Yes, sir.

Q. You made that copy?

A. It was made at my office.

Q. Have you the original in your possession?

A. I have at my office.

Q. You will send that on and we will substitute it if it is desired. I ask you if you replied to Mr. McMurry by this letter I show you dated April 12, 1917. (Handing paper to the witness.)

A. Yes, sir.

Q. That is a copy of your letter to him?

A. I think that is the original.

Q. It could not be the original; Mr. McMurry has the original.

A. Yes; it would be a copy, sure.

MR. WELCH: I offer those in evidence.

(The letters referred to were thereupon received in evidence and marked by the stenographer, "Respondent's Exhibits Nos. 32 and 33," respectively, and the same are as follows:)

RESPONDENT'S EXHIBIT No. 32.

"Copy.

Chicago, Ill.
April 6, 1917.

Mr. Eric Nelson,
1618 Capitol Ave.,
Omaha, Nebr.
Dear Mr. Nelson:

What do you think of a plan to form an organization of wholesale newspaper and magazine

agents for mutual protection and calling ourselves THE WHOLESALE DISTRIBUTORS OF THE MIDDLE WEST?

In fact, several agents called a meeting, journeyed to Chicago last week and formed just such an association. Eighteen agents from seven states were present. Matters of importance to agents were discussed and it was unanimously decided to invite all live, progressive wholesale agents to become members.

The object of the association is PREPAREDNESS, to bring agents into closer relationship for the advancement and protection of business interest, to live and let live by giving and getting a square deal everywhere. An organization can do much where a single individual would fail.

You as a business man owe it to yourself to protect your business interests and not be at the mercy of unscrupulous monopolists who compel you to turn away opportunities to earn an honest dollar for no good reason other than selfish motive.

I would be glad to hear from you on the organization subject, how you feel about it, any and all suggestions you care to make. Would you attend a meeting in the near future, at some central city to discuss ways and means of furthering the agents interests?

With best regards and awaiting an early reply, I am

Sincerely yours,

WJM/LB W. J. MCMURRAY."

RESPONDENT'S EXHIBIT No. 33.

"Omaha, Nebr.
April 12, 1917.

Mr. W. J. McMurry,
186 N. LaSalle St.,
Chicago, Ill.

Dear Mac:

In answer to your letter of April 6th, asking me what I think of a plan to organize distributors throughout the country for their mutual benefit and preparedness, etc., will say in reply that I do not believe that your plan would be feasible. I cannot surmise any way in which you could fight back any publisher who might withdraw from any certain or any particular agent for some particular reason: for instance, if I should have some difficulty with the Curtis Publishing Company here and they should become dissatisfied with me and would not care to have me act as their distributor any longer for something that I might have done that really would not interfere with their publication in any way, then what come back would you have in mind in a case of this kind. Of course I am not saying that any plans you may have would not be easily worked out but before I could give you any more definite information I should like to know in which way you would have a come back at the publisher.

Yours truly,

EN/OL. ERIC NELSON."

By MR. WELCH:

Q. After your talk with Mr. Rankin you wrote a letter to Mr. MacKinnon in reference to it?

A. I wrote the 'Pictorial Review" explaining, as near as I could, what transpired.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Did you testify that one of the reasons you would not take on the "Pictorial Review" was that it would not be profitable to you?

A. Yes, sir.

Q. Since you declined to take on the "Pictorial Review" have you taken on any other magazine?

A. Yes, sir; two.

Q. What are they?

A. "Motion Pictures" and "Motion Picture Classic."

Q. What is the circulation of the "Motion Picture" magazine?

A. About 800 a month.

Q. What is the circulation of "Motion Picture Classic"?

A. About 400.

Q. A month?

A. Yes, sir.

Q. Do you know what the circulation of the "Pictorial Review" is?

A. No, sir.

Q. Have you any idea at all?

A. No, sir; I really have not, because I have never asked any one nor have I seen the copies, so I do not know.

Q. You think it would be more profitable to handle "Motion Pictures" than the "Pictorial Review"?

A. It would be for me.

Q. Why?

A. Because the "Motion Pictures" goes on sale the same day as "The Ladies' Home Journal," and it is no expense and I have ample room for it when delivering those copies, and for that reason there is no expense.

Q. How do you deliver the "Cosmopolitan"?

A. By truck.

Q. What day does that go on?

A. The tenth.

Q. What day does the "Pictorial Review" go on?

A. I do not know.

Q. Do you not know what time the dealers receive the "Pictorial Review"?

A. You mean the publication day, or the day they receive them?

Q. The day it goes on sale.

A. I have seen their wholesale agent put them out anywhere from the seventh to the tenth.

Q. Do you know the sale day?

A. No, I do not.

Q. It is in the record that it is on the tenth of the month. So if you were handling the "Pictorial Review" and the sale day was on the tenth, and you were distributing the "Cosmopolitan" on the tenth, the same conditions would apply as apply with reference to the "Motion Picture Magazine"?

A. Well, that would all depend. If there was nothing else going out that day—that is, if I had nothing else to deliver except "Cosmopolitan" on the tenth, I would have room for it, but quite often the "Cosmopolitan" goes on sale either on Thursday or Saturday. Thursday is my "Saturday Evening Post" day, and Saturday is my Chicago papers day, so you can see I am pretty well filled up.

Q. Did you want to handle the "Pictorial Review"?

A. I was not particularly anxious; no, sir.

Q. You did not want to handle it at all?

A. Well, I do not quite understand exactly your question.

Q. Did you make any efforts to handle it?

A. No, sir; I did not.

Q. Why did you telegraph the Curtis Company?

A. To find out how they stood in the matter.

Q. Why did you want to know that?

A. For my own satisfaction.

Q. If they had told you you could handle it, would you have taken it on?

A. Well, I do not know; probably.

Q. You would like to handle it, would you not?

A. I am like any other man; I am in for the money. The "Pictorial Review" was circulating somewhere around 800 or 1000 copies then.

Q. I thought you said a moment ago you did not know what the circulation was.

A. I understood you to refer to what the circulation is now.

Q. I meant then.

A. I was told it was 800 or 1000.

Q. What is the profit on the "Motion Picture Magazine"?

A. A cent and a half.

Q. How much does the "Motion Picture Magazine" sell for?

A. Twenty cents.

Q. You handle "Collier's Weekly," do you not?

A. Yes, sir.

Q. Do you sell "Collier's Weekly" through boys?

A. No, sir.

Q. Did you ever try to sell them through boys?

A. I never did.

Q. Why not?

A. I felt that my boy organization belonged to the Curtis Company, and they are a part of the Curtis organization, which they have helped to maintain and have gotten these boys at quite an expense.

Q. Could you not get any other boys besides those boys you have in the Curtis organization?

A. You mean to handle "Collier's Weekly"?

Q. To handle any magazine.

A. No; I do not think so; I could not get any boys to handle other magazines and stick to them. There would not be enough in it.

Q. Is there as much profit in "Collier's Weekly" as in "The Saturday Evening Post"?

A. No, sir.

Q. Why is there not as much profit?

A. Because you can sell fifty "Saturday Evening Posts" to one of "Collier's Weekly."

Q. Do you know how many copies of "Collier's Weekly" a boy could sell in a week?

A. We can judge that from the sales on the news-stands.

Q. You judge from that?

A. Yes, sir.

Q. How many "Posts" do you sell a week?

A. The total?

Q. Yes.

A. My drawings are 5200 a week.

Q. How many do you sell?

A. My average sales would run about 4800.

Q. How many boys have you?

A. About 135.

Q. How many "Posts" do the boys sell every week?

A. About fifty-fifty with the boys and dealers. That would be about 2400.

Q. How many "Journals" do you sell?

A. At the present time it would run about 3800 a month.

Q. How much do the boys sell?

A. Between twelve and fourteen hundred.

Q. That would be about one-third—you said 3800 "Journals"?

A. Yes. And the boys sell about twelve to fourteen hundred a month of those.

Q. How many "Collier's Weekly" do you sell?

A. I receive 350, and my returns will run along about 20 per cent.—that is less than 300.

Q. Do you do any promotion work with the "Collier's Weekly"?

A. I do not.

Q. You just simply distribute to the retailers and collect—is that all?

A. Yes; that is all.

Q. Do you do any promotion work on any other magazines you handle except the Curtis magazines?

A. I do with the Hearst group.

Q. Why do you do it with the Hearst group and not with "Collier's"?

A. Well, the Hearst group of magazines every few months will make you a special inducement to make a certain increase on some particular issue and that makes it worth while to go after them.

Q. Is that all—that is the only time you do promotion work, when they offer you some special inducement?

A. My business is to promote the sales of all magazines I distribute for, and with the dealers my object is to get a good display—a window display—if possible.

Q. Do you get window displays on "Collier's Weekly"?

A. You mean full window display or one copy display?

Q. What you think is a good display.

A. Whenever they send me attractive posters or any posters, I am always there to see that they are put up.

Q. Is there any other magazine on which you do promotion work besides the Curtis magazines?

A. No, sir.

Q. You handle then approximately twenty-one magazines—is that true?

A. I do not know; I would have to figure that up. There are three——

Q. Just look at that (handing paper to witness).

A. Yes; I handle twenty-one.

Q. Now, out of the twenty-one magazines you handle, you only do promotion work with the Hearst magazines and the Curtis publications?

A. Yes, sir; that is true.

Q. Do the so-called Curtis boys ask for other magazines?

A. No, sir.

Q. Do you know that the boys on the street have sold the "Every Week Magazine"?

A. You mean newsboys?

Q. Any boys.

A. I know that the newsboys at one time were selling "Every Week."

Q. Do you know of any Curtis boys that ever did that?

A. That sold "Every Week"?

Q. Yes.

A. I do not.

Q. Did you ever make the statement that if you found Curtis boys selling "Every Week" or any other magazine you would decline to sell them Curtis publications?

A. I did; yes, sir.

Q. When you saw Mr. Rankin about the "Pictorial Review," it was in the morning?

A. Yes; about 9 A. M.

Q. And at that time was the Curtis agent in the store with you?

A. You mean the Curtis representative?

Q. Yes.

A. Yes, sir.

Q. You told the "Pictorial" representative, in front of the Curtis representative, that you would let him know definitely in the afternoon?

A. I did; yes, sir—no, I would come and talk the proposition over with him in the afternoon.

Q. What did the Curtis representative say when you made that proposition to him in his presence?

A. He said, "What are you going to do about it"? And I said, I was going to wire the management of the company about it, and he and I fixed up the telegram and sent it.

Q. Did the Hearst Company ever ask you for a list of the boys that you had?

A. No, sir.

Q. When did they ask you to take on the "Pictorial Review"?

A. When Mr. Rankin was there?

Q. Yes.

A. February 20, 1917—about February 20, 1917.

Q. At that time who else was wholesaling magazines at Omaha?

A. The Omaha News Company.

Q. What is that?

A. The American News Company's branch, and Mr. J. F. McLaughlin.

Q. At that time what was Mr. McLaughlin wholesaling?

A. As near as I can remember, the "Pearson's Magazine."

Q. Has that a very large circulation?

A. I do not think so.

Q. So, at that time, you first attempted to handle "Pictorial Review" you were the principal and most efficient distributor of magazines in Omaha, were you not?

A. Well, I do not know as I would say that.

Q. Did Mr. McLaughlin have any equipment for distributing magazines?

A. He did not.

Q. Did you?

A. Yes, sir.

Q. How long had Mr. McLaughlin been wholesaling magazines?

A. At that time?

Q. Up to that time.

A. I know he had "Pearson's Magazine," but I do not know how long he had been distributing that magazine; it was so small you would hardly see it.

Q. His whole business was practically retailing, was it not?

A. I should say so; yes, sir.

Q. You say six or eight of your boys sell other papers or that magazine?

A. I mean to say they are newsboys and have street corners. They sell their local papers, as well as the Chicago and St. Louis papers, and they get the Curtis publications from me.

Q. Do you wholesale the Chicago papers?

A. Yes, sir.

Q. Which ones?

A. All of them; that is, the "Chicago Tribune," the "Chicago Herald-Examiner"—they are one now.

Q. How long have you been wholesaling the Chicago papers?

A. For some time; do you want the first Chicago paper I handled?

Q. Yes.

A. The "Chicago Tribune," about 1898.

Q. You have been wholesaling newspapers and magazines ever since?

A. Yes, sir.

Q. Is that true?

A. Yes, sir.

Q. Do you remember Mr. Scholz visiting you with relation to handling "Every Week"?

A. Yes, sir.

Q. Do you remember a conversation he had with you about that time about the Chicago papers organizing—that is, the managers of the distributing departments—getting together and perfecting an organization whereby they would take one man in the various cities to handle the various Chicago papers?

A. No; I do not remember anything of that kind.

Q. In this conversation he had with you about "Every Week," what was said to you about your former experience as a newspaper distributor, if anything?

A. Well, I cannot remember now what was said.

Q. Just give the substance of it, if you can.

A. I cannot remember what was said. Mr. Scholz and myself were very friendly and we had a good many things to talk over; I had not seen him since he had been transferred or had gone to New York, and, therefore, was glad to see him and talk over old times.

Q. Did Mr. Scholz aid you in any way in taking on the Curtis publications?

A. No, sir.

Q. Did he suggest it to you at all?

A. No, sir.

Q. When did you first handle more than one Chicago newspaper?

A. I took on the agency for the "Chicago Record"—I believe it was called that at that time—about 1899.

Q. When did you take on the "Tribune"?

A. About 1898.

Q. Did you take on any Chicago papers after those two?

A. Yes, sir.

Q. Which ones?

A. The "Chicago American."

Q. When did you take that on?

A. About 1902.

Q. Is that a Hearst paper?

A. Yes, sir.

Q. Any of your "Post" boys sell newspapers?

A. No, sir—not outside of the six or eight that I mentioned, who are street corner boys.

Q. Do you know that of your own knowledge, that none of them do?

A. They are a class of boys that their parents would not permit them to sell newspapers, and I am quite sure that the Curtis Publishing Company's publications are their only interests in selling and I know they do not sell the Chicago or St. Louis papers.

Q. You spoke of receiving a check for five hundred—when was this?

A. That was the time of the Panama Exposition, about three or four years ago.

Q. Was that for an increase in circulation?

A. Yes, sir.

Q. As a matter of fact all your money prizes are for increases in circulation of the Curtis publications?

A. No, sir; I get a certain amount of money for my work with the boys.

Q. Give me an instance now, where you received money for work done by the boys, which did not involve an increase in circulation.

A. The company did have, a short time ago, an offer to pay district agents one dollar for every new boy you secured, and that made a total sales of forty copies of the Curtis publications.

Q. Did not that involve increasing the circulation?

A. Well, I do not know that it did, necessarily.

Q. If you got a new boy, and he sold forty copies, would not that increase your circulation?

A. Possibly the same week a boy would quit and that would balance up the circulation.

Q. You only put on boys when they quit?

A. No, sir; that is part of our business, to be after new boys all the time—that is, try to secure new boys.

Q. Is it hard to get boys?

A. Sometimes and sometimes not.

Q. When is it hard to get boys?

A. About vacation time.

Q. Is it vacation time now?

A. What I mean by vacation time is when school is out.

Q. You have 135 boys now?

A. Yes, sir.

Q. How many did you have last time?

A. I do not know.

Q. Was there a falling off?

A. I cannot tell.

Q. Do you not know when your boys fall off?

A. Yes, sir; when I make out my sales report and find a boy has not sold copies I know he has fallen out.

Q. Do you know whether or not you have increased the number of your boys over the boys you had last month?

A. No; not without looking up that information. If I had my records, I could tell you; yes, sir.

Q. Do you know whether you have materially increased the number of your boys over the previous month?

A. Offhand I would say that we have, because we had an ad in the local paper there for two days and that brought us in some new boys.

Q. Are you under the new contract?

A. Yes, sir.

Q. Has your bond been increased?

A. Yes, sir.

Q. Has it been increased to cover formerly the remittances under the old contract?

A. I should say it had; yes, sir.

Q. Did you ever write Mr. Mackinnon a letter stating you were sorry you could not handle the "Pictorial Review"?

A. I wrote him a letter a day or so after I had the interview with that man Rankin, explaining the circumstances of what happened the day Mr. Rankin was there.

MR. WELCH: Have you such a letter, Mr. Spiess? If you have, I would like to see it.

MR. SPIESS: I have not got it here.

MR. WELCH: Have you ever seen such a letter?

MR. SPIESS: I am not testifying.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. What was the date of this visit of Mr. Scholz that you were asked about—have you any idea when it was?

A. No; I have no idea.

Q. Was it within the last two or three years?

A. It seems to me it has been longer than that—at least that long ago.

Q. Have you any idea whether it was five years ago?

A. I would think about five years ago.

Q. It was a long time after you had taken up the Chicago newspapers?

A. Oh, yes, it was at the time when the Chicago "Herald" or the Chicago "Record-Herald" discon-

tinued this "Every Week" supplement in their Sunday paper.

Q. You took on the Curtis agency first in 1902, did you not?

A. About 1902, yes, sir.

Q. Did you apply for that agency?

A. I did; yes, sir; very strenuously.

Q. How long was it before your application was accepted?

A. As near as I could recall it, it took me about eight months before I was finally given a contract.

Q. Do you remember whether in the conversation you had with the man from the Every Week Company that you testified about, he asked you for any list of boys?

A. He wanted a list of my Curtis boys or Curtis organization so he might do some circularizing or promotive work through them.

Q. You were asked about doing promotion work and you said you did that promotion work for the Curtis and the Hearst publications only. Why is it you do it for those publications only and not for the others?

A. Well, the Curtis Company paid for it.

Q. And the others do not?

A. The others do not. As I explained about the Hearst papers, whenever they pay me for it, I get busy.

Q. Whenever they do not pay you for it, you do not do it?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. What pay do you get from the Curtis Company?

A. Bonus money.

Q. For what?

A. Increasing sales.

Q. Would you not get extra money from "Collier's" if you increased the sales?

A. I would get only my regular profits.

Q. But you would be getting extra money?

A. But the Curtis and Hearst people give me extra in addition to that.

Q. But you would make extra money out of the "Collier's" magazine if you increased the sales?

A. Yes, sir.

Q. You do not make any effort to do that?

A. No, sir.

Q. Why was it necessary for you to tell your boys if they handled "Every Week" you would not sell them the Curtis publications?

A. Simply because these boys were considered the P. J. C. boys and are Curtis boys exclusively and have been secured at great expense, and I felt that no other publisher has any right to the selling ability or work of any of these boys for their publications.

Q. If a boy sells Curtis magazines two days a week and wants to sell other magazines the other four days, you think you have a right to object?

A. I would; no such boy has ever been in my place.

Q. You would object?

A. Yes, sir.

Q. You sell these magazines to these boys for cash?

A. The Curtis magazines?

Q. Yes.

A. Yes, sir.

Q. After you sell them, do you have any proprietary interest in these magazines, if the boy does not sell them?

A. If he does not sell them, he can bring them back.

Q. Suppose he does not want to bring them back—can you compel him to do that?

A. If he has five magazines worth fifteen cents, he is not going to throw them away.

Q. Have you any ownership over the magazines after you sell them?

A. No; after I take a boy's money for these copies, the copies are his.

Q. If he wants to sell other magazines and is selling yours you reserve the right to object?

A. Yes, sir; if I see him do it; yes, sir.

MR. SPIESS: That is all.

MR. WELCH: That is all.

FRANCIS O'CONNER was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where are you from, Mr. O'Conner?

A. Wichita, Kansas.

Q. How big a place is that?

A. From sixty to seventy thousand.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. Since when?

A. 1917—October, 1917.

Q. What do you handle?

A. The Curtis publications, Frank A. Munsey's publications, three oil journals and the "Kansas City Post"—Sunday issue.

Q. What magazines did you take on first?

A. The Curtis publications.

Q. How do you distribute those magazines?

A. By automobile delivery.

Q. Have you any boys?

A. Yes, sir.

Q. How many?

A. About 130 to 140.

Q. Mostly school boys?

A. Yes, sir.

Q. Do they handle anything else but the Curtis publications?

A. There may be eight or ten that sell newspapers on the streets.

Q. Do they get those newspapers from you?

A. No, sir.

Q. That is an outside business?

A. Yes, sir.

Q. Do you work with the boys and instruct them and have meetings with them and generally supervise their work?

A. Yes, sir.

Q. You do that in conjunction with the representative of the Curtis Publishing Company?

A. Yes, sir.

Q. Have you been aided by the Curtis Company in obtaining boys?

A. Yes, sir.

Q. Are there any other wholesalers in your town?

A. Yes, sir.

Q. Of magazines?

A. Yes, sir.

Q. Who is it?

A. Mr. Fred Shores; he wholesales practically all the independent magazines, with the exceptions of the ones I handle.

Q. How long has he been wholesaling magazines—do you know?

A. Practically six years, to the best of my knowledge.

Q. He has had Hearst's for a number of years?

A. Yes; he has had Hearst's magazines for a number of years.

Q. Numerically speaking, he is the main wholesaler?

A. Yes, sir; he is the main wholesaler.

Q. How did you happen to get the Curtis agency—did you make application for it?

A. I made application; yes, sir.

Q. Had you made application prior to that time for any Curtis agency?

A. Yes, sir.

Q. At what place?

A. Tulsa, Oklahoma, primarily; Kansas City, Kansas, and Louisville, Kentucky.

Q. And you kept on applying until you got this agency?

A. Yes, sir.

Q. Were you approached by the Crowell Company?

A. No, sir; I was not approached.

Q. Were you asked to take on the Crowell publications?

A. No.

Q. Were you asked to take on the "Pictorial Review"?

A. No.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How many "Posts" do you handle?

A. About 2250.

Q. And what part of those are handled by newsboys?

A. About 1300.

Q. How many "Ladies' Home Journals"?

A. Between 1800 and 2200.

Q. And what part are handled by boys?

A. About three-fifths.

Q. Are you under the new contract?

A. I am under the new contract.

Q. And your bond has been increased in proportion to the number of copies you are now handling?

A. Yes, sir.

Q. How many retailers do you cover?

A. Forty-two.

Q. And how do you deal with them—on a cash basis?

A. On a cash and credit basis.

Q. What part are on the credit basis?

A. Possibly one-fourth or a sixth of them.

Q. When do they pay?

A. Monthly.

Q. You pay every week?

A. I pay for the copies sold every week.

Q. You make your returns regardless of what the retailers pay?

A. Yes; but not regardless of what I sell. I only pay on "The Ladies' Home Journal" on what has been sold up to that time.

Q. How can you tell whether they have been sold up to that time?

A. Those put out—those that are immediately sold.

Q. Is that the way you do with the "Posts"?

A. It is more regularly sold than "The Ladies' Home Journal"; it is sold in practically two days, and "The Ladies' Home Journal" in a longer time.

Q. You do not have that trouble with the "Post"?

A. I make a complete settlement on the "Post" once a week.

Q. You were not approached by the Every Week Company?

A. No, sir.

Q. But you approached them?

A. I approached "Every Week."

Q. And tried to get the agency?

A. In Wichita.

Q. Where did you want to handle those magazines?

A. At Tulsa—at the time I was trying for the Curtis agency in Tulsa.

Q. You tried to get "Every Week" also?

A. The Crowell publications. I did not try; I merely wrote concerning it; that was before I was an agent for the Curtis Publishing Company.

Q. After you became an agent, did you try again?

A. No, sir.

Q. As a matter of fact, you tried to get the "Pictorial Review" since you were Curtis agent?

A. I wrote concerning it.

Q. Why did you not handle it?

A. I received no answer.

Q. You received no answer from the "Pictorial Review"?

A. I received no answer from the "Pictorial Review"; no, sir.

Q. You could have handled it, could you not?

A. I later found that I could not handle it.

Q. Why?

A. Because of the Curtis Publishing Company's contract.

Q. You made no further effort to get it after you found out about your contract; is that correct?

A. Yes, sir.

Q. Now, did you or not try to get the "Pictorial Review" from Shores or Scholz, you have testified about?

A. No, sir; I never communicated with Mr. Scholz at all.

Q. Is he not the man who handled it before you took it up?

A. No, sir; the Munsey publications were handled by the Red News Company, their own organization, and the Curtis publications by C. A. Tanner, who handles a wholesale news store and book store.

MR. DALY: That is all.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. In reference to your applying to the Crowell Publishing Company to handle their publications at Tulsa——

A. Yes, sir.

Q. What reply did they make to that?

A. I wrote them stating that I had hopes of getting the Curtis Publishing Company's magazines there as a wholesale distributor or agent, and they wrote and told me—and also in this letter was enclosed a contract stating that—the letter stated that if I should be successful in securing the wholesale business or the agency in the Crowell's business there——

Q. Now, just get that straight.

A. If I remember it was if I should be successful in establishing an agency there——

Q. For whom?

A. For magazines for the Curtis Publishing Company, that they would like me to sell their publications through boys, and this contract stated that I would get my publications to be sold through boys only from a branch of the American News Company.

Q. That is the contract received by you from the Crowell Company?

A. Yes, sir.

Q. In extending this credit that you have testified about to the retail dealers, that is a personal accommodation by you to these retailers?

A. Yes, sir; it facilitates my business.

Q. It has nothing to do with the arrangement with the Curtis Publishing Company?

A. No, sir.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. When was it you applied to the Crowell Publishing Company?

A. About a year ago in May.

Q. Are you sure that the Crowell people referred to the boys of the Curtis Publishing Company or an organization of boys they were putting in?

A. They did not refer to any particular organization of boys.

Q. They did not call attention to the Curtis boys?

A. No, sir.

Q. Do you know, as a matter of fact, that the Crowell Company are putting in an organization of boys and have been doing that for some time?

A. I am aware of the fact that they tried to.

Q. And you do not know they had been continuing it right along?

A. Not in my town they have not.

Q. I am speaking throughout the country.

A. I understand they are trying to.

MR. DALY: That is all.

By MR. WELCH:

Q. But they said to you, as I understand it, if you got the Curtis contract they would give you their agency—was not that their proposition?

A. If I established an agency and secured the Curtis agency, also.

MR. WELCH: That is all.

MR. DALY: That is all.

C. T. SHELDON, was called as a witness on behalf of the respondent, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Colorado Springs, Colorado.

Q. And are you the Curtis agent there?

A. Yes, sir.

Q. Do you wholesale any other magazines?

A. No, sir.

Q. Have you any other business?

A. I am boy secretary of the Y. M. C. A.

Q. How many boys have you?

A. Twenty-three.

Q. Do you keep direct supervision over them and their sales work?

A. Yes, sir.

Q. And are you aided and abetted in that by the Curtis Publishing Company?

A. Yes, sir.

Q. What activities have you——

A. I have had meetings with the roadman, Mr. Adamson; when a boy starts in he is coached with their literature and their booklets, how to sell, and some other books on salesmanship.

Q. Were you boy secretary of the Y. M. C. A. when you took up this work?

A. Yes, sir.

Q. How did you become interested in it?

A. Through Mr. Adamson, the roadman.

Q. Was that through the boy work?

A. Yes; most of the boys are members of the Y. M. C. A.

Q. They have permanent customers, have they not?

A. Yes, sir.

Q. Are they a fairly permanent force of boys?

A. Reasonably so; yes, sir.

Q. Were you ever approached by other magazines to handle their magazines?

A. No, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. And your boys get bonuses and premiums that have been mentioned here?

A. Yes; and thrift stamps.

Q. Which makes an added increment to them for the business?

A. Yes, sir.

Q. And you get your bonuses as the work increases for the work you do with the boys?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Whom did you succeed?

A. Mr. Wade, of the Bungalow News Company.

Q. What did he handle?

A. He had practically the same lines then as he has now—the "Pictorial Review," "Hearst's," "Literary Digest"—well, I do not know that I know all of the publications.

Q. He was the leading man there, was he not?

A. The leading news agent.

Q. The leading wholesale dealer of magazines?

A. Yes, sir; they are two newspaper agencies there.

Q. He was selling the "Pictorial Review" and he was changed, was he not?

A. Yes, sir.

Q. Prior to your taking it he was the leading man?

A. Yes, sir.

Q. How many boys have you?

A. Twenty-three.

Q. How many "Posts" do you handle?

A. About 950 a week.

Q. How many "Ladies' Home Journals"?

A. Between 700 and 750.

Q. And how many "Posts" do you sell through the boys?

A. About 66 per cent. through the dealers.

Q. And of "The Ladies' Home Journal"?

A. Not quite so large a percentage—that is, through the boys, not quite so large a percentage.

Q. How many dealers are there?

A. Twenty-four.

Q. And how do you deal with them, on a cash basis?

A. I carry few accounts.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Did you say 66 per cent. through the dealers or boys?

A. Through dealers.

Q. Wade is the principal magazine wholesaler there now, is he not?

A. Yes, sir.

MR. MILBURN: That is all.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1[redacted]1922.

No. 3[redacted]86

FEDERAL TRADE COMMISSION, PETITIONER,

vs.

THE CURTIS PUBLISHING COMPANY.

WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

VOLUME IV.

Petition for certiorari filed May 24, 1921.
Certiorari and return filed August 8, 1921.

INDEX TO VOLUME IV.

	Direct Exam. Page	Cross-Exam. Page	Re-Dir. Exam. Page	Re-Cr.-Exam. Page	Re-Re-Dir. Exam. Page	Re-Re-Cross-Exam. Page
James C. Jackson	2649	2651	2653			
Gordon B. Bell	2654	2655	2655			
H. W. Parish	2655	2657				
Presley Mallory	2660	2662	2665	2667		
C. M. Turner	2668	2670	2680	2691		
Hartly Green	2693	2695	2720	2725		
H. W. Marks	2728					
George H. Lewis	2730	2732	2738	2739	2744	
Osborne Adamson	2745	2748	2761			
H. W. Marks (Recalled)	2762					
R. C. McLarty	2771	2773				
Carl Otto Neese	2775	2778	2783			
W. R. Young	2784	2786	2797	2799		
F. M. Bay	2800	2802	2808			
F. L. Coad	2809	2813	2813			
S. A. Christenson	2814	2818	2820	2821		
George Shubert	2823	2826				
Robert Wells	2827	2829				
Thomas Dewey	2831	2835	2838			
Alexander McLean	2839	2849	2860	2861	2863	
Mrs. I. B. Sturdevant	2863	2872	2879			
Cyrus Benedict	2881	2884	2885	2886		
Louis Ehrhard	2886					
L. A. Nelson	2888	2890	2901	2909		
Mrs. G. Whittlesey	2911	2914				
Jacob Baron	2917	2925	2941	2943	2946	2946
C. Ray Bawden	2949	2951	2953	2954		
G. H. Sagerman	2955	2958				
A. B. Catterfeld	2961	2966				
Royal Johnson	2969	2973				
T. J. Hyde	2973	2977				
W. C. Geleng	2978					
W. L. Earnshaw	2980	2982	2990			
M. D. Reynolds	2991	2992	3004	3009		
W. L. Earnshaw (Recalled)		3017	3019			
C. M. Gott	3026	3028	3049			
H. L. Young	3051	3054	3067			
C. E. Boyce	3072	3079	3090	3093		
J. F. O'Neil	3093	3095	3102	3105		
H. H. Nutter	3106	3108	3125	3127		

INDEX TO VOLUME IV—Continued.

Witnesses:	Direct Exam. Page	Cross-Exam. Page	Re-Dir. Exam. Page	Re-Cr.-Exam. Page	Re-Re-Dir. Exam. Page	Re-Re-Cross-Exam. Page
Edgar B. Kernan	3127	3129	3136			
A. J. Holl	3136	3139				
H. B. Smith	3142	3144				
John W. Rhodes	3145	3146				
A. R. Otis	3146	3149				
F. F. Hamilton	3150	3154	3155	3156		
Israel Goodman	3157	3163	3170	3171		
Horace F. Campbell	3171	3174				
Charles Franklin Johnson	3175	3178	3179			
Carl H. Reister	3179	3182	3183	3184		
Frank M. Heck	3184	3185	3187	3188	3189	3190
Carl S. Snook	3190	3191	3191	3192		
B. F. Lane	3192	3194				
Walter H. Norris	3194	3195				
Clyde Alvis	3197	3201				
W. S. Carter	3204	3205				
W. A. Stoute	3206	3208				
M. E. Douglas (Recalled)	3210	3247				
Charles H. Smith (Recalled),	3313	3323	3324			
REBUTTAL TESTIMONY.						
Martin Korb	3326	3329	3342			
Robert J. Cuddihy	3342	3347	3351	3353		
Harold Sanborn	3354	3380				
B. A. McKinnon (Recalled),	3398	3400				
Osborne Adamson (Recalled),	3404	3405	3406			
H. B. Smith (Recalled)	3406	3408	3408			
M. E. Douglas (Recalled)	3412	3414				
Harold Sanborn (Recalled)	3416	3429				

	Page
Certificate of Secretary	3433
Statement of M. E. Douglas	3434
List of District Agents	3438
Statement of William Boyd	3442

INDEX TO EXHIBITS VOLUME IV.

		Page
Commission's Exhibit No.	201	2701
" " "	202	2702
" " "	203	2708
" " "	204	2713
" " "	205	2715
" " "	206	2751
" " "	207	2807
" " "	208	2928
" " "	209	2932
" " "	210	2933
" " "	211	2937
" " "	212	3135
" " "	213	3174
" " "	214	3251
" " "	215	3253
" " "	216	3277
" " "	217	3281
" " "	218	3320
" " "	219	3321
" " "	220	3322
" " "	221	3417
" " "	222	3420
" " "	223	3423
" " "	224	3424
" " "	225	3425
" " "	226	3427
Respondent's Exhibit No.	32	2763
" " "	34	3075
" " "	35	3229
" " "	36	3231
" " "	38	3235
" " "	39	3236
" " "	40	3238
" " "	41	3240
" " "	42	3241
" " "	43	3243
" " "	44	3244
" " "	45	3246
" " "	47	3325
" " "	48	3386
" " "	49	3390

Writ of certiorari and return 3446 344

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
The Curtis Publishing Company. } Docket No. 15.

JAMES C. JACKSON was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Sheridan, Wyoming.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. How long have you been the Curtis distributing agent?

A. Since October, 1914.

Q. What magazines do you handle?

A. We handle about sixty-five publications, retail.

Q. What do you wholesale?

A. Curtis publications only.

Q. In addition to this Curtis business, you maintain a large retail store, do you?

A. Yes, sir.

Q. You have never wholesaled any other magazines but the Curtis magazine?

A. No, sir.

Q. Is there a magazine wholesaler in your city?

A. Yes, sir.

Q. Who is that?

A. Faulker's Newsstand.

Q. Are they the principal magazine wholesalers there?

A. No, sir; they only wholesale Crowell publications.

Q. Any other wholesalers there?

A. None in the magazine and periodical lines; there is a newspaper wholesaler.

Q. Before they came into the field with the Crowell publications, you were the only wholesaler of magazines, were you?

A. Yes, sir.

Q. You were only wholesaling Curtis magazines?

A. Yes, sir.

Q. That was the only publishing house availing itself of that method of distribution?

A. Yes, sir.

Q. How do you make deliveries?

A. I deliver by boys—they are only a couple of blocks away—the dealers—except one dealer at the north end, and he uses the street car.

Q. How many boys have you?

A. Twelve.

Q. You keep personal supervision over their sales?

A. Yes, sir.

Q. And report them to the Curtis Publishing Company every week?

A. Yes, sir.

Q. And does the Curtis Publishing Company cooperate with you in working with your boy staff?

A. They have.

Q. Do your boys receive bonuses and prizes or extra payments?

A. Yes, sir; small ones. We have never had anything large.

Q. How about the new contract—are you under that?

A. Yes, sir.

Q. What is the population of Sheridan?

A. Approximately ten thousand.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How many "Posts" do you handle?

A. Three hundred and twenty.

Q. What percentage of that is sold through the boys?

A. About one-half.

Q. And "The Ladies' Home Journal," how many?

A. Two hundred and twenty-five.

Q. And what percentage of that is handled by the boys?

A. A little better than half.

Q. And "The Country Gentleman"—do you handle that?

A. Yes, sir.

Q. What percentage of that is sold through the boys?

A. Nearly all of them.

Q. You cover all the retailers in that city?

A. Yes, sir.

Q. Have you any accounts with them?

A. No, sir; I get cash in advance.

Q. How many retailers are there?

A. Seven—six, without ourselves; I am counting myself in that figure.

Q. How many "Posts" do you sell at retail?

A. I will have to look at the figures. "Saturday Evening Posts" to retailers, 139.

Q. How many "Pictorial Reviews"?

A. I do not know.

Q. How many do you retail?

A. I do not know, without looking at the figures.

I have not got the figures to give you. I can tell you when I get home.

Q. I do not want to know that after you get home. How many "Ladies' Home Journals" do you retail?

A. The totals?

Q. Yes—the number you retail—not the ones you sell through the boys and dealers.

A. About sixty-two copies.

Q. And do you handle newspapers?

A. Yes, sir.

Q. What ones?

A. The "Chicago Tribune" and what was the "Record-Herald"; it is now the "Herald-Examiner."

Q. How long have you handled that?

A. About ten years.

Q. Did you have that before you took on the Curtis publications?

A. Yes, sir.

Q. You have been handling those papers ever since?

A. Yes, sir.

Q. Did anybody ever approach you from the "Pictorial Review" wanting to use your boys?

A. No, sir.

Q. Any one from the Every Week Publishing Company?

A. "Every Week"—yes, sir; the Crowell people did.

Q. When did they do that?

A. Oh, perhaps six weeks ago—it might have been two months ago.

Q. It has been recently?

A. Yes, sir; not more than two months ago.

Q. How do you sell your newspapers—through boys?

A. No, sir; just from the store. We have subscribers by the month and people who buy single copies.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. In your store work you retail magazines?

A. Yes, sir.

Q. You answered in reference to the "Posts" that you sold 126—is that the number of "Posts" you sell to the retailers?

A. Yes, sir.

By MR. DALY:

Q. The question was how many did you retail?

A. How many "Posts" do I retail?

Q. Yes.

A. Oh, I thought you said how many did I sell to the retailers.

Q. No; how many did you retail?

A. I have not got that here—sixty copies.

Q. How many "Ladies' Home Journals" did you retail?

A. Thirty-two copies.

Q. How many "Pictorial Review"?

A. I have not got that.

Q. Cannot you approximate it?

A. I can, yes; we drew this issue seventy copies; of course, they have not been sold yet. They have only been on sale a few days.

Q. How many did you draw of the last issue?

A. Eighty.

Q. How many did you sell?

A. I had quite a bunch left.

Q. How many "Posts" do you draw?

A. Three hundred and twenty.

Q. How many "Journals" do you draw?

A. Two hundred and seventy-five.

Q. What do you do with those that are over?

A. Very few over. I did not have any "Journals" over last month, and once in a while we have one or two "Saturday Evening Posts" left over. I have had as many as eleven or twelve.

MR. DALY: That is all.

GORDON B. BELL was called as a witness on behalf of the respondent, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Bell, where do you reside?

A. No. 439 Emerson Street, Denver.

Q. What is your occupation?

A. State circulator for the "News" and "Times."

Q. The "Rocky Mountain News" and the "Denver Times"?

A. Yes, sir.

Q. What other newspapers are published in Denver?

A. The "Denver Post" and "Denver Express."

Q. Those are both afternoon papers?

A. Yes, sir.

Q. And the "Denver Times" is an afternoon paper?

A. Yes, sir.

Q. In what territory are the "Rocky Mountain News" and the "Denver Times" circulated?

A. Colorado and Wyoming, New Mexico, Kansas, Nebraska—that is the main sections—they also go to the other parts of the country, but not in great volume.

Q. They go into Texas and Oklahoma?

A. Yes, sir.

Q. Now, in distributing and circulating these two

papers that you are connected with, do you do that through wholesalers who distribute to retailers?

A. We do.

Q. Are those men your agents—your exclusive distributors—or have you any arrangements for joint agencies with other Denver newspapers?

A. We have no arrangements with any papers at all for joint agencies.

Q. And you distribute in the majority of instances through your exclusive agents?

A. In most cases.

Q. In most cases?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. What do you mean by "exclusive agents"?

A. Those handling no other Denver newspapers.

Q. They handle other papers, do they not?

A. Yes, sir; if there is one worth while close to them that is demanded.

Q. You permit them to handle that?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. They do not handle any other papers by reason of any arrangement your papers have with them?

A. No, sir; there is no arrangement existing at all.

H. W. PARISH was called as a witness on behalf of the respondents, and, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you reside, Mr. Parish?

A. I beg pardon?

Q. Where do you reside?

A. Seattle.

Q. What is your occupation?

A. I am circulating director of the Scripps Northwestern League of Newspapers.

Q. What do those papers comprise?

A. The "Seattle Star," the "Spokane Press," the "Portland News" and the "Tacoma News."

Q. You are the circulation manager of those papers or connected with the circulating end of it in some way?

A. I am in full charge; I have my circulating managers on the various papers.

Q. And you are entirely familiar with the various methods of circulation?

A. Yes, sir.

Q. How many other papers are there in Seattle?

A. We have had two other papers up to a month ago; now we have three.

Q. How many newspapers are there at Tacoma?

A. Four—three others besides ours.

Q. How many other newspapers besides yours are there at Portland?

A. Three.

Q. What territory are these papers distributed through?

A. Washington and Oregon.

Q. Now, in distributing your papers through that territory, do you distribute through dealers or wholesalers who distribute to sub-dealers?

A. In large towns? Yes, sir.

Q. In large towns?

A. Yes, sir.

Q. Do you have your own distributors or dealers, or do you have joint agencies with other newspapers?

A. Exclusive agents.

Q. You have no joint agency with any of the newspapers at Seattle, Portland or Tacoma?

A. We have no joint agencies in any of those towns—in some places—

Q. With any of the newspapers?

A. No, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. You mean by that, you have no arrangement?

A. Absolutely none.

Q. You did not mean they do not handle any other papers except yours?

A. I mean they are exclusive agents with reference to my papers.

Q. That does not answer my question satisfactorily—not satisfactorily to me; I do not understand it. I want to know whether these exclusive agents—how many newspapers they handle?

A. Why, our agents are big enough in towns of any size to pay a man to handle them; for instance, we send them 3000 papers——

Q. Of different kinds?

A. No, sir; the "Seattle Star"——

Q. Take the Tacoma papers—what are the names of the papers there?

A. The "Tacoma Tribune," the "Tacoma Ledger" and the "Tacoma Times."

Q. They go into these various cities and towns to separate men?

A. Yes, sir; the "News" and "Ledger" are owned by one individual and they are combined.

Q. If the circulation is large, it pays these men to handle it?

A. Exactly.

Q. And a smaller newspaper where the circulation

would be small, could you handle that situation in that way?

A. In that case we would have a boy handle that paper.

Q. You would have to get a boy?

A. Yes, sir.

Q. You are the only circulation manager for all these newspapers?

A. I am circulation manager of the "Seattle Star" and circulation director of the other Scripps papers.

Q. These papers are all owned by one concern?

A. Yes, sir.

Q. What is the name of that concern?

A. The Scripps Northwestern League.

Q. That takes in how many papers—I am not sure of what you said?

A. Four.

Q. And yet you put them around through exclusive agents. What is that?

A. Why, we naturally do not try to conflict, in Tacoma with our Seattle paper; and Spokane paper covers Washington and Oregon, and the Tacoma paper southwestern Washington——

Q. In other words, you distribute these around so there will not be a competitive distribution between them?

A. In southwest Washington, the "Seattle Star" distributes in there quite freely because of the train service.

Q. Is not that the situation, that you cut out the competitive situation by this arrangement?

A. Not necessarily.

Q. Is not that the idea of this exclusive agency?

A. I would not go in and tear down the agency of my Tacoma paper, but there is nothing to prevent my putting in an agency for my Seattle paper, if I care to.

Q. When you make these arrangements, one of the things you had in mind—of course, you want to increase your circulation—but one of the things you have in mind is to cut down competition, is it not?

A. We co-operate as much as possible.

Q. Will you kindly answer my question.

A. Certainly.

Q. Well, answer the question: Is it not true that you cut out competition when you do that, to a very great extent?

A. That is a question rather peculiar to answer; certainly we have competition.

Q. I ask you if you do not cut out competition to a very great extent by having this arrangement, and that is what it is for, to a certain extent?

A. Why, no; what would we have a man in charge of our Tacoma paper, in charge of the circulation there, if he was not out for all the circulation he could get—certainly he will compete with the Tacoma and Seattle papers.

Q. I am speaking about the four papers you handle; you do not put them in the same communities, do you?

A. In some cases; yes.

Q. In some cases you do not, do you?

A. No, sir.

Q. Now then, why is it you do not put them in the same communities—the same state—different papers in the same community?

A. The fact is, it is of no value to our advertiser in Tacoma to go into the Seattle territory.

Q. In doing that you are cutting out competition in the advertising line?

A. We might put it that way; yes, sir.

MR. DALY: That is all.

MR. WELCH: That is all.

PRESLEY MALLORY, was called as a witness, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Mallory, where do you live?

A. San Francisco, California.

Q. What is your business?

A. I am the circulation manager of the "Bulletin."

Q. The "San Francisco Bulletin"?

A. Yes, sir.

Q. Are you also employed by the "San Francisco Chronicle"?

A. In an advisory capacity.

Q. Are you familiar with the circulation methods of the "Chronicle," as well as the "Bulletin"?

A. Yes, sir.

Q. Through what territory are the "Bulletin" and "Chronicle" circulated?

A. Practically the entire state of California, southern Oregon and western Nevada—the bulk of it being in California.

Q. What other papers are there that go into that same territory other than the two you mentioned?

A. The "San Francisco Morning Examiner," the "San Francisco Evening Call" and the "Evening News."

Q. Any of the Oakland papers——

A. Pardon me—those are the metropolitan dailies, but there are some papers printed in Italian and French. It is not necessary to mention those, is it?

Q. You might mention that.

A. The French paper is the "Echo of the West," and the Italian paper is called "Italy." The German paper printed there was discontinued last week.

Q. Any Oakland papers go into that territory?

A. The Oakland papers go into the same territory ours do—the "Oakland Tribune," the "Oakland Post" and the "Oakland Inquirer."

Q. Any papers from any other cities go into that territory?

A. In Sacramento we have the "Sacramento Bee," the "Sacramento Union," and in Fresno, the "Fresno Republican, the "Fresno Herald," and in San Jose, the "Mercury" and the "San Jose News," and in Stockton, the "Stockton News Independent" and the "Stockton Record."

Q. Is there any arrangement or agreement between any of the papers that you are connected with and any of the other papers that you have mentioned, as to distribution through a joint agency in any part of that territory?

A. Quite to the contrary, to use slang, it is a cut-throat game.

Q. Are you familiar with the situation at Los Angeles?

A. I am, because I worked for the "Los Angeles Express" and "Tribune" during 1914.

Q. Is there any arrangement or combination of any sort between the Los Angeles papers and any other papers that circulate through the same territory for the use of the same joint agencies?

A. Not at the time I was employed there, because the situation was the same as at San Francisco, and I believe they have grown further apart there.

Q. In other words, the newspapers that you are connected with and these other papers that you mentioned, have, generally speaking, separate organizations for distribution?

A. To a great extent I should say they have.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Take Los Angeles, for instance. How are the papers gotten out to the people in that city?

A. In Los Angeles, at the time I was there—understand I do not speak of the present time; this was four years ago——

Q. At the time you were there.

A. They were distributed through wholesalers to newsboys on the streets.

Q. Wholesale dealers?

A. They were not wholesale dealers, because they were not selling and buying papers.

Q. How many news dealers were there?

A. I believe I had a payroll at that time that was rather extensive. I guess we had on the "Express," in the afternoon, about twenty wholesalers—not dealers, but wholesalers.

Q. Wholesale dealers, I am speaking about—men who deal in a wholesale way in those papers?

A. I should say we had about twenty subsidized by salaries.

Q. It was necessary to pay them a salary, was it?

A. Yes. If you care to know, I will tell you that this was the case of a paper that had been beaten to the ground and was prostrated and we had to put up a fight to get on the street again, and we employed a large number of newsboys and wholesalers.

Q. Would those papers in that locality go through more news dealers than one—you say there were twelve of them—what would the twelve handle?

A. The twelve handled different districts; for instance, if you are familiar with Los Angeles, I might say that we had at Hill Street a man who distributed to the newsboys on that street, and on Broadway we

had the same situation, and the same on Spring Street, and the same on Main Street, about eight blocks long, and they took in the connecting streets between them.

Q. They handled various papers?

A. No, sir; they handled just the "Express," because they were just our salaried agents.

Q. What other news dealers were there who handled other papers?

A. The newsboys—the corner boys.

Q. They were the only ones?

A. No, sir; later drug stores and stationery stores were used to put them in.

Q. There was no agent that handled more than one newspaper?

A. There were men who handled more than one newspaper on the street; yes, sir. At the time I was at Los Angeles they recognized the property right of a newsboy on a corner; for instance, a man would pay $200 for the privilege.

Q. That is the same thing as in Chicago?

A. That was a right that existed only at the whim or will of the circulation manager. I destroyed many of them.

Q. Coming down to the circulation of those papers, it is a matter of each locality presenting a different situation?

A. Yes, sir.

Q. And there is no rule laid down for the distribution of a newspaper except as to that particular locality?

A. I would not say so, because a man who goes from one town to another usually takes the ideas he gained in one town—in the town he left.

Q. You would find it different in different towns as you go along?

A. Oh, yes.

Q. Would you frame your situation to the conditions you found in different towns?

A. Yes, sir.

Q. That is the situation in every town, is it not?

A. That was the situation in the two towns I worked in. I cannot speak for any others.

Q. Now, you cover the State of California, do you not?

A. We cover—the "Bulletin" and "Chronicle" have agencies as far south as Bakersfield.

Q. In that territory what newsdealers are there that handle more than one newspaper?

A. There are quite a few.

Q. How many are there?

A. There are about two thousand post offices in the State. I can give you quite a number from memory.

Q. Cannot you give me an estimate of the number of dealers there are—wholesale dealers in newspapers—in each community that handle more than one paper?

A. No; because I could not give it exactly, and I will not in a general way, because I would not be sure.

Q. There are a large number of them?

A. There are quite a number.

Q. Take San Francisco, for instance—there are several there?

A. There are several hundred.

Q. Take Sacramento—are there not some there?

A. Yes, sir; there are about five or six there.

Q. As a matter of fact, there are some all around in these different localities?

MR. WELCH: Will you explain what you mean by "some."

THE WITNESS: Pardon me if I appear to be dense, but I want to be quite sure.

MR. DALY: I have asked him as to the whole-

sale newsdealers, dealers that handle more than one paper. That is what I am trying to get at.

MR. WELCH: That is all?

MR. DALY: I want to get at somewhere near the number.

A. In San Francisco I said there were hundreds —there may be thousands; in Sacramento I know five or six; in Stockton there are three; in Fresno there are three; in Bakersfield there are half a dozen, and in Petaluma there are three—my memory is not an exact one, but I can call off a good many towns like that, if you care to hear them.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Those wholesale dealers that do handle more than one newspaper do not do so by reason of any prearrangement between the newspapers themselves?

A. No, sir; it is a matter of chance; it is a haphazard sort of thing.

Q. That is enough of an answer.

MR. DALY: Let him go ahead.

THE WITNESS: I am short of breath.

MR. DALY: I want him to answer; he started to answer further.

THE WITNESS: For instance, if I took some particular dislike for an agent and could not get along with him, I might cast him aside and get another. I would not go to another newspaper; the rivalry in San Francisco is very bitter and keen.

MR. WELCH: Go ahead and keep on; I like that portion of the record.

MR. DALY: Please read the question and answer.

(The stenographer repeated the question and answer.)

MR. DALY: I ask that that "short of breath" be stricken out. It is immaterial and irrelevant.

By MR. WELCH:

Q. You said something about the payment of salaries in answer to a question by Mr. Daly—I think it was at Los Angeles—these salaries are not being paid now by any of your papers to the wholesale dealers?

A. Yes, they are in San Francisco, and in Los Angeles they do, too; more there because Mr. E. T. Earl is a millionaire many times over and can afford it.

Q. How often is that done?

A. In every town I have been in there have been subsidized newsdealers and wholesalers; usually the under dog in circulation finds it necessary to do so or else go out of existence.

Q. You were also asked by Mr. Daly a question in which he said conditions were different throughout the country and therefore no rule could be laid down that would apply to everywhere. You answered that was correct, but there was one rule that did apply, that the papers did not use joint wholesalers?

A. That is quite true; we do not use joint wholesalers. I understand that there must be some agreement between them and there is no agreement between them—am I correct?

Q. Agreement or arrangement.

A. I think I explained that by saying it was a cut-throat game and we could never get together. I might amplify that in saying that for nineteen years the San Francisco circulation managers did not get together until two weeks ago.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. What did they do two weeks ago?

A. We had a fine time and that is about all.

Q. You did not talk combining?

A. No, sir; we were too diffident about it; we are all like schoolgirls.

Q. Do I understand you to say, Mr. Mallory, that there are objections from the several papers as to permitting one man to handle more than one newspaper?

A. I did not say that.

Q. Do you know whether or not they object to that?

A. I have never had any such objection brought to me. I have selected agents at will and have never yet had a kick, because we can always go out and get another agent. We have never been at a loss to find an agent at any town.

Q. Of course, in Los Angeles, you mean to say you did have trouble, because you described that situation?

A. Yes, sir; we had trouble there.

Q. And you had to subsidize them to get them?

A. Because the other papers were subsidizing them; it was the case of a paper with the most money to spend.

MR. DALY: That is all.

MR. WELCH: That is all we have today.

EXAMINER MOORE: We will take a recess until 10 o'clock tomorrow morning.

(Whereupon, at 5 o'clock P. M., a recess was taken until tomorrow, Saturday, May 18, 1918, at 10 o'clock A. M.)

Saturday, May 18, 1918.

The hearing was resumed at 10 o'clock A. M., pursuant to the taking of adjournment.

Appearances: As heretofore noted.

C. M. TURNER was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. By whom are you employed, Mr. Turner?

A. The Curtis Publishing Company.

Q. And in what capacity?

A. Superintendent of agencies.

Q. How long have you been superintendent of agencies?

A. About five years.

Q. And what district did you cover?

A. Northern California and Nevada.

Q. You are familiar with the cities and towns in your district, are you?

A. Yes, sir.

Q. And with the district agents in the different towns?

A. Yes, sir.

Q. How many cities and towns do you cover?

A. Forty-four, I think, at the present time.

Q. And have you an agent in each one of those?

A. I have.

Q. So you have forty-four agents?

A. Yes, sir.

Q. Have you recently made an investigation at the request of the Curtis Publishing Company and

made reports to that company based on that investigation, on the pink and white slips which we will produce here?

A. Yes, sir.

Q. That was with reference to the general wholesaling situation throughout your district, was it not?

A. Yes, sir.

Q. As a result of that investigation, can you tell me in how many of the towns covered by you is there only one wholesaler?

A. I think thirteen at the time I made the investigation. I investigated forty-five towns. We only have, now, forty-four agencies.

Q. One agency has been discontinued?

A. One wholesale agency has been discontinued.

Q. And your figures are based——

A. On forty-five towns; there are thirteen of those that contain only one wholesaler.

Q. Of those thirteen wholesalers, how many of them handle the Curtis magazines only?

A. Nine.

Q. How many of your agents wholesale only Curtis magazines—I am not considering newspapers at all in that question.

A. Thirty-four.

Q. And how many of the agents began the magazine business with the Curtis magazines?

A. Forty-one.

Q. In how many of the towns where the Curtis agent handles other magazines is that agency the only wholesaler?

A. Four towns.

Q. In making your investigation, what did you do in the different towns?

A. You mean to learn who were the wholesalers?

Q. Yes—did you visit the towns in your district?

A. Well, I called on the circulation managers of the metropolitan newspapers, and I called on the retail magazine dealers in the territory; I called on our own wholesale agents and other wholesale magazine dealers in each town.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How did you find out that a certain number of these were handling Curtis magazines first?

A. Because I appointed all of them as my agents myself; I knew that to be the fact.

Q. They have all been appointed within five years?

A. Yes, sir; either been appointed under the present contracts or entirely new contracts. Some of them have been agents for more than five years, but I put them under the new contracts.

Q. You say there are four instances where the wholesaler handles your magazines and other magazines, and is the only wholesaler in the town?

A. Yes, sir.

Q. Will you give me those four instances?

A. No, I did not make that statement.

Q. Well, what statement did you make about that?

A. What is your question?

Q. In how many towns are there dealers that handle your magazines and other magazines?

A. Just one wholesaler in town?

Q. No—what did you say the four constituted?

A. You will have to ask me the specific question.

Q. You told Mr. Milburn four handled other magazines and Curtis magazines and were the only wholesalers in those towns.

MR. MILBURN: Do you know the names of those four towns?

THE WITNESS: Yes, sir; Palo Alto, California; Pacific Grove, California; Burlingame, California, and Madera, California—that was at the time that investigation was made.

By MR. DALY:

Q. Well, that is the time I am speaking about. Now, in Palo Alto, your agent handled the "San Francisco Examiner," the "San Francisco Chronicle" and the "San Francisco Call" and some other newspapers, and also handled the International Magazine Company group, and the Curtis publications—is that correct?

A. Yes, sir.

Q. He was the only wholesaler there?

A. Yes, sir.

Q. And had he been there for some time?

A. He had been there for several years, to my knowledge.

Q. Did he enter the new contract with you?

A. Yes, sir.

Q. Now, in Burlingame, do you know whether or not the "Pictorial Review" tried to get him or the "Every Week" publication?

A. From the correspondence, I think they did. I am not positive about that, but I think we had some correspondence from Mr. McKinnon in which he turned it down, stating he did not care to handle it.

Q. How do you know that?

A. He had his contract with us and it was a violation of his contract to handle another magazine without our permission.

Q. It was because of the contract?

A. Yes, sir.

Q. At Burlingame, California, your man handles the "Examiner," the "Chronicle," the "Call" and the "Bulletin," the Curtis publications and the International magazine group the same as the other?

A. Yes, sir.

Q. And he is the only man there?

A. Yes, sir.

Q. And was at the time you made this investigation, which was made on the 23rd of February, 1918?

A. Yes, sir.

Q. And for a long time prior to that he was the only man there?

A. Yes, sir.

Q. He is under contract with your company?

A. Yes, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. You put that contract in with them, did you?

A. Yes, sir.

Q. What reason did you give for putting in the new contract with them?

A. A change of policy of the company.

Q. In what respect?

A. They desire to put their agents on a consignment basis.

Q. That is what you told them?

A. Yes, sir.

Q. Do you know whether or not the "Pictorial Review" or the "Every Week" tried to get him?

A. I do not think so.

Q. Did you talk with him about it?

A. I did not.

Q. Now, in Pacific Grove, California, your agent there has the newspapers—that is, the three newspapers and the International Magazine Company group, and he is the only agent there?

A. Yes, sir.

Q. And is your agent, and was for a long time past?

A. Yes, sir.

Q. How big a place is Pacific Grove?

A. The winter population, I believe, is about two thousand.

Q. And Burlingame?

A. Burlingame is perhaps four thousand—probably nearer five thousand.

Q. And Palo Alto?

A. About six or seven thousand.

Q. In Madera your agent handles the International Magazine Company's group and your magazines?

A. Yes, sir.

Q. What is the International group?

A. It is known as the Hearst group.

Q. Now, he was under the old contract with you, was he not?

A. Yes, sir.

Q. And is now under the new contract?

A. Yes, sir.

Q. When did you put him under the new—about when?

A. I think it was about March 1st.

Q. Do you know whether or not the "Review" or the "Every Week" asked this man to handle their magazines?

A. I do not think so.

Q. Did you talk to him about it?

A. I did not.

Q. Now, there were nine cases where they handled Curtis only—is that correct?

A. Yes, sir.

Q. In nine towns they handled nothing but Curtis magazines, did they?

A. Yes, sir.

Q. Did I understand that correctly?

A. In nine of the thirteen in which there is only one wholesaler, they handle Curtis exclusively.

Q. In thirteen towns there is only one wholesaler,

nine of them handle Curtis exclusively, four are these other towns we have been talkng about—is that correct?

A. Yes, sir.

Q. That leaves thirty-one towns, does it not, out of the forty-four?

A. That leaves thirty-two out of the forty-five that I investigated.

Q. Where there is more than one wholesaler?

A. Yes, sir.

Q. Now, in Redwood City, your man handles all the newspapers and your magazines—is that correct?

A. No, sir.

Q. Your agent handles nothing but your publications?

A. Yes, sir.

Q. And the man handles the International group and all the newspapers?

A. Yes, sir.

Q. How big a place is Redwood?

A. That is about four thousand.

Q. Is your agent under the new contract?

A. Yes, sir.

Q. Generally speaking, these are all under the new contract?

A. Yes, sir.

Q. You put them in, did you?

A. Yes, sir.

Q. When did you put them in?

A. That is, since the first of January, 1918.

Q. I notice in San Rafael, you are changing your agent there—why are you doing that?

A. The boy is a high school boy and graduates this year, and expects to take up permanent work.

Q. He is just a boy?

A. Yes, sir.

Q. Have you made any changes in agents lately other than that?

A. Yes, sir.

Q. Where did you make the changes?

A. Well, I have changed three agents that I had placed under the new contract since the first of January.

Q. What is that?

A. I have changed three agents that I had placed under the new contract since the first of January.

Q. Why did you do that?

A. One had moved away from the town, the other one, his father was moving away.

Q. Did you change any because they were handling "Pictorial Review" or "Every Week"?

A. I did.

Q. What are those towns?

A. Petaluma, California, and Santa Rosa.

Q. Who was the agent there at Santa Rosa?

A. A man by the name of Bresnahan.

Q. What did he handle?

A. Curtis magazines, the "Munsey," "Pictorial Review," and "Collier's."

Q. When did you make the change?

A. I could not give you the exact date, but I think it was somewhere near the first of March.

Q. He began to handle "Pictorial Reviews"?

A. Yes, sir; he handled "Pictorial Review" last year.

Q. You changed him this March?

A. I did.

Q. And he was the leading man there, was he not?

A. He was at that time; yes, sir.

Q. The other towns you mention that you changed because "Pictorial Reviews"——

A. The only other man was handling "Pictorial Review" under a subterfuge and I changed him.

Q. Where was that?

A. Petaluma.

Q. What was he handling?

A. The Munsey publications, "Pictorial Review" and "Literary Digest"——

Q. And was he the leading man there?

A. I would not say he was the leading man.

Q. What did you say he handled, again?

A. Our publications, the "Pictorial Review," Munsey's publications, and I believe "Collier's," and I think he took on the "Literary Digest" this year.

Q. That is about all the leading magazines, is it not?

A. He did not handle the Hearst group and the Crowell group supplied by the news company.

Q. He would not handle the Crowell group until the last few months, as that was handled by American News Company, was it not?

A. They were breaking away from the American News Company a year ago.

Q. Now, in Vallejo, California, your agent handled the "San Francisco Chronicle," your publications and "Collier's"—is that correct?

A. Yes, sir.

Q. Is he under the new contract?

A. He is.

Q. And he was under the old one?

A. Yes, sir.

Q. And he has been an agent there for a good while?

A. Yes, sir.

Q. Now, in Tonopah, Nevada, your man handles the San Francisco papers, the "Chronicle" and the "Examiner"——

A. Yes, sir.

Q. And is the only man there that handles magazines—is not that correct?

A. He is the only wholesaler.

Q. He is under the new contract?

A. Yes, sir.

Q. You testify that all of these are under the new contract?

A. Yes, sir.

Q. Suisun, California, your agent handles the "Bee," the "Examiner," the "Chronicle" and "Call," and the "Oakland Tribune" and your publications?

A. Yes, sir.

Q. And there is no other magazine dealer there?

A. No other wholesaler.

Q. Do you know whether this man was asked to take on the "Pictorial Review"?

A. Not in a wholesale way.

Q. Now, at Stockton, California, your agent handles the "Chronicle" and the "Bulletin"?

A. Yes, sir.

Q. And, of course, your papers.

A. Yes, sir.

Q. How long has he been your agent there?

A. Since 1914; I cannot give you the months.

Q. Albert Wilson handles the "Pictorial Review," "Collier's," the Crowell group and Motion Pictures?

A. Yes, sir.

Q. How long has he been in business there?

A. He has wholesaled "Collier's" for about five years.

Q. He has recently taken on "Pictorial Review" and the Warner group.

A. Yes, sir.

Q. In Palo Alto, California, your man handles the "Examiner," the "Chronicle," the "Bulletin" and the "San Jose Mercury"——

A. Yes, sir.

Q. And the International Magazine Company's group, and is the only man there?

A. Yes, sir; the only wholesaler.

Q. He was under the old contract?

A. Yes, sir.

Q. Do you know whether "Pictorial Review" tried to get him?

A. I answered a while ago that they tried to get him by correspondence?

Q. In Burlingame your man handles the San Francisco papers?

A. Yes, sir.

Q. At Pacific Grove your man handles three of the San Francisco papers?

A. Yes, sir.

Q. San Mateo, your man handles the "Call" and the "Bulletin"?

A. Yes, sir.

Q. In San Jose, your man handles the "Chronicle"?

A. Yes, sir.

Q. In Bishop, California, your man was J. W. Bernard—have you changed him there?

A. Under the new contract?

Q. Yes. Is he still operating for you?

A. Yes.

Q. Does he handle newspapers. I notice you have erased that there.

A. He does not wholesale newspapers.

Q. Does he retail them?

A. Yes, sir.

Q. That was the situation when you made this report?

A. Yes, sir.

Q. At Chico, California, your agent handles the "Chronicle," the "Bee" and the "Bulletin"?

A. Yes, sir.

Q. In Eureka, your man handles the "Chronicle," the "Bulletin" and the "Oakland Tribune"?

A. Yes, sir.

Q. In Grass Valley, your man handles the "Examiner," the "Chronicle," the "Call," the "Bulletin" and the "Sacramento Union"?

A. Yes, sir.

Q. And is the only wholesaler there?

A. Yes, sir; of magazines, but he is not the only newspaper wholesaler.

Q. In Lodi, California, your representative handles the "Examiner," the "Chronicle," the "Call," the "Bulletin" and the "Bee," and is the only man there?

A. The only magazine wholesaler there; yes, sir.

Q. At Klamuth Falls, your man handles the "Examiner," the "Call," the "Chronicle," the "Bee" and the "Telegraph"?

A. Yes, sir.

Q. And the International group of magazines, and yours?

A. Yes, sir.

Q. How long has he handled the International group?

A. For several years—I could not tell you for how long.

Q. Harry Richardson handles the "Pictorial Review" and the Warner group?

A. Yes, sir.

Q. He has handled them only since the independent movement—is not that correct?

A. Yes, sir.

Q. And prior to that time Thomas was the only magazine wholesaler there?

A. Yes, sir.

Q. Do you know whether or not he was asked to take on the "Pictorial Review"?

A. I do not.

Q. In Sacramento, California, James Gray han-

dles the "Pictorial Review." Do you know how long he has handled it?

A. I think he started in with the December, 1917 or the January, 1918, issue.

Q. Who had it prior to that time?

A. Mr. Richards.

Q. You objected to his handling it, didn't you.

A. He dropped it voluntarily; he realized he was violating his contract.

Q. Did he ask permission to handle it?

A. He did not.

Q. Did you call attention to it?

A. I called attention to his contract.

Q. When you did that he quit?

A. Yes, sir. Later on, after he had some trouble with the "Pictorial Review" over their account—that is, he asked to be relieved of the agency.

Q. Was it because of the trouble he quit or because of the contract?

A. He had had trouble with the account, and asked to be relieved of the agency, and he realized it was a violation of his contract.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Turner, you just spoke of Sacramento and stated that when you found that the Curtis agent was handling "Pictorial Review" you merely called his attention to his contract?

A. I did.

Q. You did not raise verbally any objection?

A. I did not.

Q. Did not that occur in the early part of last year, when you were acting under orders from the home office to leave matters in *statu quo?*

A. Yes, sir.

Q. Is that the reason you did not raise definite objections?

A. Yes, sir.

Q. Do you know by whom the Sacramento agent was approached and asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. Who was it?

A. By Mr. Young, representing the "Pictorial Review."

Q. What did Mr. Young tell him—do you know?

A. I saw Mr. Richards about June, 1917, after I came back from the East, and he said Mr. Young called on him, I think, about February 25th, or between February 20th and February 28th, and made the statement that all the Curtis agents in the South and Southwest, meaning southern California, Arizona and Texas, had taken on the "Pictorial Review" and there was no objection by the Curtis Publishing Company to their taking it on.

Q. That was the reason he took it on?

A. He made the statement to Mr. Young, "I will take it on if I do not have to sell through the boys; I am sure they will object to selling through the boys." He said Mr. Young came back after going out—he came back a little while later and said, "All right; go ahead," and it took effect with the May issue of 1917.

Q. You referred to four towns, Palo Alto, Madera, Pacific Grove and Burlingame. Do you know whether the Curtis agent in Palo Alto started with the Curtis magazines in the magazine wholesale business?

A. You mean in the wholesale business?

Q. Yes.

A. No, sir.

Q. He was in the magazine business before we got in?

Q. At Madera, C. F. Preciado is your agent; did he start in the magazine business with the Curtis group?

A. I think not; I think he had the International group before he took on our group.

Q. He is the only wholesaler there?

A. At the time he took on the International group I think he was the only retailer there. He did not begin to wholesale their group before he took on the Curtis group.

Q. You misunderstood my question. When I referred to handling magazines I meant handling wholesale.

A. He was the Curtis agent before I went into that territory, and I cannot state positively.

Q. You do not know whether he started the wholesale magazine business with the Curtis publications or with the International group?

A. I could not say positively.

Q. In Burlingame, who was your agent?

A. Mr. Reagan.

Q. He handles the Curtis magazines and other magazines, does he?

A. He is handling the International group there.

Q. Do you know what group he began with?

A. He was the Curtis agent before I came to the territory and I could not say positively whether he started with the Curtis group or not.

Q. In Burlingame, the Egbert Brothers and the San Francisco News Company both deliver magazines to the dealers?

A. They deliver by mail; yes, sir.

Q. In Pacific Grove, D. R. Beardsley is your agent, is he not?

A. Yes, sir.

Q. And he also handles the "San Francisco Examiner," the "Chronicle" and the "Call"?

A. Yes, sir.

Q. There is another newspaper wholesaler there, is there not?

A. There is, but I cannot recall the name now.

Q. Will this refresh your memory (handing paper to witness)?

A. Yes, Mr. King.

Q. What does he handle?

A. The "San Francisco Bulletin."

Q. At San Mateo, your agent is Thomas Ginnever, is he not?

A. Yes, sir.

Q. And he also handles the "San Francisco Call" and the "Bulletin"?

A. Yes, sir.

Q. And Green & Rabault handle the International group, do they not?

A. Yes, sir.

Q. And they also wholesale——

A. The two morning papers.

Q. San Francisco papers?

A. Yes, sir.

Q. So that both of the magazine wholesalers are also wholesalers of newspapers?

A. Yes, sir.

Q. In San Jose, who is the Curtis agent?

A. Mr. C. S. Kearns.

Q. He also wholesales the "San Francisco Chronicle," does he not?

A. He does.

Q. There are two other magazine wholesalers there, are they not—McEwen and Bennett?

A. There is one other that I remember.

Q. Well, there is your report (handing paper to witness).

A. Yes; McEwen and Bennett.

Q. And McEwen also wholesales the "San Francisco Examiner"?

A. Yes, sir.

Q. And there are two other newspaper wholesalers?

A. Yes; there are.

Q. In Bishop, J. W. Bernard is the Curtis agent?

A. Yes, sir.

Q. He is the only magazine wholesaler there?

A. Yes, sir.

Q. Do you know what magazines he began with?

A. The Curtis publications.

Q. Do you know what business he was in first of all?

A. In the stationery business.

Q. He handled the Curtis magazines first of all, as a wholesale magazine business?

A. Yes, sir.

Q. In Chico, how many magazine wholesalers are there there?

A. At least two; there might be three there.

Q. Look at your reports and give the names.

A. McLean is the Curtis Company's wholesaler; W. H. Mitzel handles the International group and also the "Pictorial" group——

Q. In making your computations and in making up your reports, you have excluded the "Pictorial Review" and the Crowell Publishing Company and the news company agencies?

A. Yes, sir.

Q. That applies to all of these reports?

A. Yes, sir.

Q. So, in a town where the report shows only one wholesaler there might be a "Pictorial Review" or a Crowell wholesaler in addition?

A. Yes, sir.

Q. Now, McLean, your agent, also wholesales three San Francisco papers?

A. He wholesales at least two San Francisco papers and one Sacramento paper.

Q. And no other magazines?

A. No other magazines.

Q. Who is the "Pictorial" agent there?

A. W. H. Mitzel.

Q. And he wholesales the "San Francisco Examiner" and the "San Francisco Call"?

A. Yes, sir.

Q. There is, in addition, a third newspaper wholesaler handling both Oakland and Sacramento papers —is that correct?

A. Yes, sir.

Q. Mitzel also handles the Hearst group and the "Literary Digest"?

A. Yes, sir.

Q. In Eureka, California, the Eureka News Company is the Curtis agent?

A. Yes, sir.

Q. Handling only the Curtis group?

A. Yes, sir.

Q. And also wholesaling the San Francisco and Oakland newspapers?

A. Yes, sir.

Q. Who is the agent there for the Hearst group?

A. I cannot recall his name; he is the agent for the "San Francisco Examiner"—Hid——

Q. He also wholesales the "San Francisco Call," and the "San Francisco Examiner," does he not?

A. Yes, sir.

Q. Is there a "Pictorial" agent there?

A. When I visited there last summer there was not, to my knowledge.

Q. At Grass Valley, the agent is William Sampson?

A. Yes, sir.

Q. He wholesales only the Curtis publications?

A. Yes, sir.

Q. And wholesales also some San Francisco papers and Sacramento papers?

A. Yes, sir.

Q. There is another newspaper wholesaler there?

A. Yes, sir; who handles the "San Francisco Bee" and the "Oakland Tribune."

Q. In what other business is Sampson?

A. Stationery business.

Q. Did he start his wholesale magazine business with the Curtis Publishing Company?

A. Yes, sir.

Q. He handled them before he wholesaled newspapers?

A. I think it was about the same time; it was about eleven years ago that he started.

Q. At Lodi, Mr. Robinson is your agent, is he not?

A. At the time of the investigation; yes, sir.

Q. And he handles certain of the San Francisco and Sacramento papers?

A. Yes, sir.

Q. Is there another newspaper wholesaler there?

A. There is; I think it is a boy that handles the "Oakland Tribune," Carl Rundy.

Q. And since making this investigation have you changed that agency?

A. The agency has been transferred to a boy.

Q. So that Robinson is no longer the Curtis agent?

A. That is right.

Q. Is that boy handling only the Curtis publications?

A. Yes, sir.

Q. Has he any other business?

A. Nothing but a student in school.

Q. At Clamath Falls, Thomas is the Curtis agent?

A. He is.

Q. He likewise wholesales other magazines?

A. Yes, sir.

Q. And he wholesales the San Francisco and Sacramento papers, does he not?

A. Yes, sir.

Q. Richardson——

A. Richardson wholesales the Portland, Oregon, newspapers and magazines.

Q. And the Warner group and "Pictorial"?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. You testified to certain cities you had made changes in the agencies—at Petaluma, for instance?

A. Yes, sir.

Q. Who was your agent there?

A. At the present time?

Q. No, who was?

A. Mr. Rock.

Q. To whom did you transfer it?

A. To a boy by the name of Alvin Wayne, and since then I have transferred it to the Clark Drug Company.

Q. And they wholesale only the Curtis magazines?

A. Exclusively; that is the first magazine they have ever wholesaled.

Q. Who is the big wholesaler of magazines there?

A. Mr. Rock.

Q. At Santa Rosa, who was the Curtis agent?

A. Mr. T. B. Bresnaham.

Q To whom did you transfer it?

A. To a boy by the name of—I cannot recall the boy's name now—yes, his name is Cowan.

Q. Who is he?

A. His father is one of the leading attorneys in that town.

Q. And his only other business is as a student in school?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. At Vallejo, who is the Curtis agent?

A. Theodore Liebman.

Q. Is there another magazine wholesaler there?

A. There is.

Q. And what does he handle?

A. The International group and the "Literary Digest."

Q. His name is Goldthorpe?

A. Yes, sir.

Q. And do both Goldthorpe and Liebman handle newspapers wholesale in addition to their magazine business?

A. Yes, sir.

Q. Are there also two other newspaper wholesalers in Vallejo?

A. Yes, sir; Carl Rockwood and Arndt.

Q. And in the magazine business, the Curtis agent handles only the Curtis group?

A. He handles "Collier's," I believe.

Q. At Tonapah, how many newspaper wholesalers are there there?

A. Two boys and one man.

Q. The only magazine wholesaler is the Curtis agent?

A. Yes, sir.

Q. That is Rothhold Brothers?

A. Yes, sir.

Q. And they handle only the Curtis publications?

A. Yes, sir.

Q. And he is also one of the three newspaper wholesalers?

A. Yes, sir.

Q. At Suison City, how many newspaper wholesalers are there?

A. Two.

Q. One of the two is the Curtis agent—is that correct?

A. Yes, sir.

Q. And he handles only Curtis magazines?

A. Yes, sir.

Q. What newspapers does the other man handle?

A. The "San Francisco Bulletin."

Q. Who is the Curtis agent at Stockton?

A. George Scantleburg.

Q. Does he handle any other magazines?

A. I believe he has one small publication there, and he has the "Literary Digest" at the present time.

Q. How many other magazine wholesalers are there?

A. Two, Alfred Wilson and George R. Sherman.

Q. How many newspaper wholesalers are there?

A. Three—do you want me to name them?

Q. Yes.

A. George R. Scantleburg, George R. Sherman and Mr. Gibson.

Q. Who handles the "Pictorial Review"?

A. Alfred Wilson.

Q. Do you know whether Scantleburg was asked to take on the "Pictorial Review"?

A. He was.

Q. Was Sherman in business as a magazine wholesaler at Stockton at that time?

A. He was.

Q. Was Wilson also?

A. Yes, sir.

Q. Do you know of the circumstances under which Scantleburg was asked to handle "Pictorial Review," and by whom?

A. He was asked by Mr. Young, the traveling representative of the "Pictorial Review." He came to Mr. Scantleburg's office and made the same statement as he made to the Sacramento agent, that a number of agents in the South and Southwest had taken on the "Pictorial Review" and that he should not miss a good thing.

Q. Did he say anything about the Curtis Publishing Company objecting?

A. He said there was no objection.

Q. Did Scantleburg take it on?

A. He consented to take it on and then looked at the contract and wrote to the Curtis Publishing Company, to either the San Francisco office or the Philadelphia office, and asked permission, and they called attention to his contract and suggested that he had better not take it on, that it was a violation of his contract.

Q. He did not take it on?

A. No, sir.

Q. Was he asked to handle them through boys?

A. Yes, sir; he referred Mr. Young to Mr. Wilson and recommended Mr. Wilson.

Q. Who was the largest magazine wholesaler there in Stockton?

A. Mr. Sherman—he was at that time. I presume now Mr. Wilson is the largest magazine wholesaler—as to the largest number of magazines handled.

Q. What does Sherman handle?

A. He just handles the Hearst group, comprising six magazines, and Mr. Wilson is handling the "Pictorial," "Collier's," "Motion Picture," I think—that

is, he has taken on "Motion Picture." I do not know whether he had it at that time or not—the Warner group also, which is making him the largest wholesaler.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How long have you been appointing agents?

A. For about five years.

Q. When you go to a place and want an agent and find a man who is handling Hearst's publications, and you can secure him, you do it, do you not?

A. I do not.

Q. If he handles any other magazines, would you not take him on?

A. I would not.

Q. Why?

A. We prefer exclusive agents.

Q. How did these men get appointed in the cases you have testified about where they handled other magazines?

A. Some took on our publications——

Q. You said there were some who had other publications first, and a number of these had newspapers first, did they not?

A. There might be exceptions.

Q. Let us talk about these exceptions.

A. That is, at a time before this investigation, there might have been exceptions where we would take a man handling other publications.

Q. You took them on in a number of cases here, did you not?

A. I only took on one.

Q. Your testimony shows there is a man handling other magazines than Curtis and that you took him on.

A. Yes, sir.

Q. And he was handling those magazines at the time you took him on?

A. Yes, sir.

Q. There are quite a number of instances of those who were handling newspapers?

A. Yes, sir.

Q. And you contracted with them, did you not, or your company?

A. Yes, sir.

Q. You would get in the case of newspapers, would you not?

A. Sometimes; yes, sir; if he was the most desirable agent there.

Q. As a matter of fact, that is your policy, to select the best man?

A. The best man for our particular interests; yes.

Q. What percentage of your publications are handled by these exclusive agents of yours in this territory?

A. You mean exclusive Curtis agents?

Q. Who handle nothing but your publications.

A. Thirty-four out of the forty-four.

Q. That handle no newspapers?

A. They are exclusive magazine wholesalers for the Curtis Publishing Company.

Q. Do not some of those handle newspapers?

A. They do.

Q. I am speaking of those who do not handle newspapers or magazines.

A. I could not tell you that.

Q. Do you know how many there are?

A. I could not tell you.

Q. You testified there were so many——

A. No, sir; not with reference to newspapers.

Q. Do you know how many there are who do not handle newspapers?

A. I could find out by checking over my list.

Q. Check them over and see how many there are.

A. Twenty-seven. There have been four or five or six changes since then—Petaluma, Santa Rosa—there are two, and Lodi—I did not handle that. I think there are three changes since then. We have about thirty.

By Mr. Daly: That is all.

Hartley Green, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Mr. Green, by whom are you employed?

A. By the Curtis Publishing Company.

Q. In what capacity?

A. Superintendent of agencies.

Q. How long have you been with the Curtis Publishing Company?

A. About six years.

Q. You mean you have been superintendent of agencies for six years?

A. No, sir.

Q. How long have you been superintendent of agencies?

A. About five.

Q. How long have you worked with the Curtis Publishing Company in any capacity?

A. About six.

Q. Did you not work with them before that, on a commission basis?

A. It might have been slightly before that—that is approximate, you know.

Q. What districts do you cover?

A. Arizona, Southern New Mexico, El Paso and Southern California.

Q. Have you been in all of the towns you cover and are you familiar with that district?

A. Yes, sir.

Q. Do you know the agents?

A. Yes, sir.

Q. How many towns are there in your district?

A. You mean district agencies?

Q. Yes.

A. Forty-six; that is, those were covered by this investigation.

Q. Those are the towns where you maintain a district agency?

A. Yes, sir.

Q. And how many district agents operate in these towns?

A. Forty-six.

Q. In making this investigation, whom did you interview in the different towns?

A. In the first place, I got in touch with the publishers of the large newspapers circulating in the various towns, and, in the towns proper I got in touch with our agents and various dealers, and so forth, in order to secure the information.

Q. You interviewed the newspapers to find out who the newspaper wholesalers were—is that correct?

A. Yes, sir.

Q. Did you interview some of the retailers to verify some of the information you got from your agents and others?

A. Yes, sir.

Q. In how many towns of your district is there only one wholesaler?

A. Only one magazine wholesaler?

Q. Yes.

A. Thirty-two.

Q. How many of the thirty-two wholesale only the Curtis publications?

A. Seventeen.

Q. How many of your agents wholesale only the Curtis magazines—I am not counting newspapers now?

A. Twenty-four.

Q. How many of your agents began the magazine business with the Curtis Publishing Company?

A. Thirty-five.

Q. In how many of the towns where the Curtis agent handles other magazines is that agent the only wholesaler?

A. At the time of this investigation, fifteen.

Q. Have there been any changes since?

A. Three since, reducing it to twelve.

Q. I neglected to ask you whether you made an investigation, and, on that investigation, made reports to the Curtis Publishing Company as to the wholesaler situation.

A. I did, on each separate town.

Q. And in collecting this data and giving your figures, did you exclude men in the different towns who wholesale the Crowell publications or the "Pictorial Review" and also exclude branches of the American News Company?

A. I did.

Q. If you included those, you would have increased the number of wholesalers?

A. Yes, sir; there are several towns where there are wholesalers for each of those publications.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. As superintendent of agencies in this district, part of your business is to keep an eye on what com-

peting magazines are doing relative to these agencies —the "Pictorial Review" and "Every Week"?

A. Relative to our agencies?

Q. To any person you have under contract—yes.

A. Yes, sir.

Q. In the event that they handle either "Pictorial Review" or "Every Week," you object, do you not?

A. Yes, sir.

Q. Your company objects?

A. Yes, sir.

Q. And you will not permit him to handle them—is that correct?

A. Correct.

Q. How long has that been the situation?

A. The company has objected to it for, I presume, a year; in fact, ever since they broke away.

Q. From about the time of the breaking away, you have been specially on the lookout?

A. Yes, sir.

Q. Are there any places in your district where you find that subterfuges are being resorted to, where these magazines were handled under cover?

A. No, sir.

Q. In how many instances have these magazines that I have mentioned, tried to get your boys to handle their magazines?

A. Not any that I know of.

Q. You never heard of that in your district?

A. No, sir.

Q. Not during the time you have been in business there, about five years?

A. No, sir.

Q. How many of these agents that you have talked about here handle nothing but your magazines?

A. How many of these agents handle nothing but Curtis magazines?

Q. Of these men you have testified about who handle nothing but Curtis and not even newspapers.

A. I would have to look at my sheets.

Q. How many of them handle your magazines and newspapers?

A. As far as the newspapers are concerned, I have no information except on my pink and white sheets.

Q. You do not know the number of towns that handle nothing but your magazines and other magazines?

A. Other magazines?

Q. Yes.

A. I have that information. I can state, as far as magazines are concerned——

Q. Give me those towns.

A. I have fifteen towns in which our agents are the only wholesaler.

By Mr. Milburn: That is not the question.

By Mr. Daly:

Q. I am asking you for the instances where your man handles other magazines and is the only wholesaler in the town?

A. That is the question—there are fifteen instances of that kind; that is, at the time of this investigation.

By Mr. Daly:

Q. Confine it to that—what are those towns?

A. Maracopa, Ocean Park, Tulare, Yuma, Arizona; Douglas, Arizona; Handford, California; San Luis Obispo, Pomona, Redlands, San Pedro, Bisbee, Arizona; Phoenix, Arizona; Long Beach, California; Fresno, California, and El Paso, Texas.

Q. Is that the list?

A. Those are the towns.

Q. Your plan is always to select the best man in a town for the purpose of handling your magazines?

A. The best man or boy; if a boy would answer the purpose better, we would get a boy.

Q. In Tulare, your agent handles the newspapers, Hearst magazines and your publications?

A. He does.

Q. There is no newspaper man there, nor any wholesaler of magazines?

A. No, sir.

Q. How long has he been there?

A. Well, our old agent sold out to these people, possibly two years ago. Our present agent worked for the old agent and simply bought the store out.

Q. He has been there ever since?

A. Yes, sir.

Q. He was under the old contract?

A. Yes, sir.

Q. Are all these agents under the new contract?

A. All except El Paso.

Q. You have not placed one there?

A. No, sir.

Q. Why not?

A. They are handling "Pictorial Review." They have sent in a cancellation of their agreement, but I have not placed the new contract.

Q. Why not?

A. Until they cease handling the "Pictorial Review," we will not place the new contract.

Q. At Redlands, your man there handles the "Los Angeles Examiner," the Curtis publications, the Hearst group and "Collier's"?

A. Yes, sir.

Q. There is no other magazine wholesaler?

A. No, sir.

Q. Adams handles the "Los Angeles Times"?

A. Yes, sir.

Q. How long has Sell been your man there? Was he under the old contract?

A. Yes, sir.

Q. And he is under the new one?

A. Yes, sir.

Q. Now, in San Pedro, your agent there is Hawthorne?

A. He was; I have made a change since then.

Q. He handled your publications, the "Pictorial Review," the Hearst group, and he was the only magazine wholesaler there?

A. He was.

Q. You have changed now?

A. Yes, sir.

Q. Why?

A. He was handling "Pictorial Review."

Q. Your company objected to that, and you put in whom?

A. Edward Reese.

Q. What does he do?

A. He is a newspaper man.

Q. What newspapers does he handle?

A. The "Evening Herald," and, I think, the "Record." I will not be positive, but the "Evening Herald" is the main paper.

Q. You do not object to taking him on because he handles a newspaper?

A. Not at all.

Q. Now, at Pomona, your man there is Schwichtenberg?

A. He was.

Q. He handled the Hearst publications and your group?

A. Yes, sir.

Q. And when the "Pictorial" came along, he took that on, did he not?

A. He did.

Q. And you objected?

A. We did.

Q. And at that time he was the only wholesaler of magazines there, was he not?

A. He was.

Q. And how big a business did you do with this man?

A. That is, how many copies did he draw in Pomona?

Q. Yes.

A. About 250 copies of the "Post," possibly.

Q. And how many "Ladies' Home Journals"?

A. The same number, I think—no, two hundred of the "Journals."

Q. Did he handle the "Pictorial Review" himself or did he handle it through somebody else?

A. It seems to me he had it in his brother's name; I will not be positive, but it is Schwichtenberg Brothers; and it is the same thing.

Q. What became of this man after you cut him off—is he still in business?

A. He was the last time I was there.

Q. When were you there last?

A. A month ago.

Q. When did you cut him off?

A. About a month ago.

Q. Are you familiar with the signature of Mr. Schwichtenberg?

A. I do not know that I would recognize it if I saw it.

Q. Is that his signature to those letters (handing papers to witness)?

A. That is Albert; Otto was our agent.

Q. He is in the firm?

A. Yes, sir.

Q. Did you look at both of those letters?

A. I did not read them.

Q. Just look at the signatures.

A. Yes; I would say that was Otto's signature (indicating).

Q. You are sufficiently familiar with the signature to say Otto signed those?

A. This one (indicating).

Q. And the other one is his younger brother?

A. Yes, sir.

By Mr. Daly: We offer these two letters in evidence, one from A. A. Schwichtenberg, Pomona, California, dated April 18, 1918, and the other from H. O. Schwichtenberg, addressed to the Pictorial Review Company, dated April 22, 1918. I understand there is no objection to them.

Examiner Moore: These letters will be received in evidence without objection.

(The letters referred to were thereupon received in evidence and marked by the stenograper "Commissions Exhibits Nos. 201 and 202," respectively, and the same are as follows:.

Commission's Exhibit No. 201.

"Pomona, California,
April 18, 1918.

Mr. B. A. McKinnon,
Pictorial Review,
New York City,

Dear Mr. McKinnon:

The Curtis Publishing Company have today cancelled the District Agency contract for the Saturday Evening Post, Country Gentleman and Ladies' Home Journal held by my brother, N. O. Schwichtenberg, who is included in the partnership of Schwichtenberg Brothers, because I continued to handle the Pictorial Review on a wholesale basis.

Under these circumstances, and with the chief revenue in our wholesale magazine business cut

off, we are discontinuing the wholesale magazine business entirely and therefore ask that you cancel my order of Pictorial Review with the May issue now on sale. That is to say, send no more copies.

I am today notifying the dealers of this action and recommending that they shoot their orders into the Los Angeles News company immediately, so that there will be no hitch in their supply.

Will notify you when the last of the returns have been sent, so that you can adjust my account, which will be in my favor.

My brother is today writing you a letter explaining the affair.

Very truly yours,
(Signed) A. A. SCHWICHTENBERG."

COMMISSION'S EXHIBIT No. 202.

"Pomona, California.
April 22, 1918.

Mr. B. A. McKinnon,
Circulation Director,
PICTORIAL REVIEW,
New York City.
Dear Sir:

For your information, I am writing you concerning the cancellation of my Curtis Publishing contract because my brother wholesaled the Pictorial Review.

In the first place, all orders for Pictorial Review have been handled by my brother, he handling the entire magazine end of our business. The Curtis contract was in my name, and the Pictorial order was sent in my brother's name. My

only attention in the magazine business being to sign the checks to the various publishers. (In ink: We conduct our business under the firm name of Schwichtenberg Bros. [H. O. & A. A.].)

From the start of the war between the Curtis Publishing Company and the Pictorial Review, my position in the matter was made very plain to Superintendent Hartley Green of the Curtis company. I could not see in any way in which the Pictorial circulation would conflict with the Curtis business in Pomona, as long as it was confined to a strictly newsdealer basis and subject to their orders only. This, I believe, was adhered to rigidly. Boys were never allowed to handle the Pictorial lest it might interfere with Curtis boys, and dealers were served copies only as they ordered. Personally, I do not believe the Curtis people had the technical right to cancel the contract, because of the fact that I did not actually handle Pictorial and that my name does not appear upon your books. However, Superintendent Green was given to understand, in the presence of my brother, that my brother would discontinue handling the Pictorial at any time he deemed it conflicting with the best interests of the Curtis publications. He gave me his word at that time, that he would let me know if the Pictorial Review was to be dropped because of strained affairs between the two companies. Thus, I had supposed that the verbal understanding with their traveling representative was sufficient, especially when I had made my interest in the matter a wide-open affair to him. He even went so far as to take my affidavit to the effect that my brother was NOT handling the Pictorial Review in defiance to the Curtis Publishing company, but simply to serve the dealers. From that time, we have never heard a word from

him regarding the Pictorial differences, until he appeared upon the scene to make the transfer of the agency. Then, he told me that I had acted in good faith in the matter, and that if he had his way about it, there would be no transfer, but that he was under orders from Philadelphia direct and that no change could be made in his directions.

It would have been bad business for us to defy the Curtis people, inasmuch as the Curtis agency in revenue is worth about twelve times the revenue derived from wholesaling Pictorial Review. Knowing of their business methods in the past, I had every confidence that my good faith would be considered by them and that their Superintendent would protect us as he had promised.

Since losing the Curtis publications, we have decided to cancel all our wholesale magazine business, because of the decided hole it makes in our profits from that source. The fact that I am in the next draft and that my brother will be of selective age in another year, has probably hastened our plans in cutting off all the magazines, but with the Curtis publications we would have continued the wholesaling, and would have made arrangements for its continuance as we are doing with the rest of our business in the liability of country service.

I have been a representative of the Curtis company for over 15 years and do not believe my integrity and honest dealing with them had ever been questioned. So when the thirty-day cancellation notice on the Pictorial grounds was received, without any previous warning, I am decidedly at a loss to understand the present policy of the Curtis Publishing company, following such

a long period of friendly and absolutely fair relations.

Any more information that you desire, will be gladly furnished.

Very truly yours,
(Signed) H. O. SCHWICHTENBERG."

By MR. DALY:

Q. In Pomona, California, there was no other agent there——

A. At that time; no.

Q. Did I ask you whether all of these men are under the new contract?

A. All our agents are under the new contract, except El Paso.

Q. At Douglas, your man was McClure, and he handles several newspapers and the Curtis magazines, the Hearst group and "Collier's"?

A. Yes, sir.

Q. And there was no other agent there, and you had him under contract?

A. Yes, sir.

Q. Is that agent still there?

A. Yes, sir.

Q. Is he still your agent?

A. He is.

Q. Why is he not changed here—does he not handle the "Pictorial Review"?

A. Not that I know of.

Q. At Yuma, Arizona, your agent is Rodenbaugh, and he handles the "Times" and the "Examiner" of Los Angeles, and the Hearst group and your publications?

A. He does.

Q. And he was under the old contract?

A. He was.

Q. When did you put him under the new contract?

A. Since the middle of February.

Q. And all these were put under the new contract since the first of the year?

A. Yes, sir.

Q. Now, at Hanford, your man is Manning, and he handles the "Examiner," the "Republican" and the "Times" and the Curtis group, the Hearst group, and "Literary Digest," and he was the only magazine man there?

A. Yes, sir.

Q. And another firm handled the "San Francisco Chronicle"?

A. Yes, sir.

Q. Now, in Ocean Park and Santa Monica, your man handles the "Los Angeles Examiner"——

A. Yes, sir.

Q. And also the Curtis publications, the Hearst group, and Munsey, and was the only man there?

A. The only magazine man there.

Q. Later Coombs started up with the "Pictorial Review"?

A. Yes, sir.

Q. Who was Coombs?

A. I do not know.

Q. Did you not inquire who he was?

A. Generally, yes. I did not meet the man.

Q. What was he, a retailer?

A. No; I do not think he was even a retailer.

Q. Do you know what he did?

A. He handled newspapers retail.

Q. Now, in that town, Creig & Shoemaker handle the "Los Angeles Times," and Carr handles the "Los Angeles Herald." In Maracopa, Stiegelman handles all the newspapers there and also the Hearst group, and was your agent under the old contract.

A. Yes, sir.

Q. Have you put him under the new contract?

A. No, sir.

Q. Why not?

A. He discontinued handling magazines wholesale, and I secured a new agent. He handles papers.

Q. Did he take on the "Pictorial Review" or "Every Week"?

A. No, sir.

Q. Why did you change him?

A. He was discontinuing the magazine business. At his request I made the change.

Q. At Long Beach, California, your man handles the Hearst magazines, Munsey magazines and Curtis, and his name is Kearney?

A. Yes, sir.

Q. How long was he your agent there?

A. Over five years.

Q. And a new man has come in there by the name of Coombs?

A. Yes, sir.

Q. He handles the "Review" and the Crowell group?

A. Yes, sir.

Q. He has taken them on since this trouble?

A. Yes, sir.

Q. Did you talk to Kearney about the "Pictorial Review"?

A. No.

Q. Do you know whether he ever handled it?

A. I do not think he ever did.

Q. Did he ever want to handle it?

A. I do not think so.

Q. Do you know whether he had ever been asked to handle it and could not, on account of his contract?

A. I could not say positively.

Q. Kearney was the only magazine wholesaler there?

A. Yes, sir.

Q. What does this man Coombs do?

A. I do not know.

Q. How did you find out about Coombs?

A. Kearney told me.

Q. Knapp is your agent at Fresno?

A. Yes, sir.

MR. DALY: I offer the following letter in evidence. The reply, it will be noted, is on the back.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 203," and the same is as follows:)

COMMISSION'S EXHIBIT, No. 203.

(On letterhead the Pictorial Review Company.)

"March 15, 1917.

Mr. C. C. Carney,
130 W. Ocean St.,
Long Beach, California.

Dear Mr. Carney:

We should have your order and check for Pictorial Review for May by return mail.

We wish you to make sure that every dealer in Long Beach, Cal., gets as many copies of this big, beautiful May issue as he can possibly sell.

Every dealer who has sold out clean on March will need approximately 20% more for May. The May issue usually sells 20% better than March. And furthermore, we are going to advertise this May number big—in magazines and newspapers and by posters.

When you send your order for May you might as well tell us how many extra covers and how

many small posters (size 8x11 inches) you can use to good advantage.

Let's break all records for May and show all publishers just what the independent wholesalers can do for a magazine which has the courage to break and go direct. They're watching, too!

Yours for a new record,

(Signed) B. A. McKINNON,

Circulation Director.

P. S.

Remember, Pictorial Review is fully returnable to you, but we hope you will clean up every month or at least hold returns to 10% or less.

(In ink. Over.)

(On back of above letter, in ink:)

I wrote you a week ago that it would be impossible for me to handle your magazine on account of my contract with the Curtis Company.

I regret very much that this is true, but it is.

Until I shall receive permission from the Curtis Company, it will be impossible for me to act as your distributor here. As by so doing I would sacrifice my agency with them. This I do not wish to do.

Very truly yours,

C. C. CARNEY.

(Envelope: Stamped and stamp cancelled.)

Postmarked: 'Long Beach, March 20-17, 8 P. M. Cal.'

Addressed: 'Pictorial Review Co.'

216-226 W. 39th St.,

New York City."

By MR. DALY:

Q. At Fresno, your agent handled the Hearst group and "Collier's"?

A. Yes, sir.

Q. How long was he your agent there?

A. About two years, I believe.

Q. He was under the old contract?

A. He was.

Q. He is under the new contract now?

A. Yes, sir.

Q. And you put him under it since the first of the year?

A. Yes, sir.

Q. And he also handles the "San Francisco Examiner"—is that correct?

A. Yes, sir.

Q. Mrs. Eschelmann handles the Crowell group?

A. Yes, sir.

Q. What does she do?

A. She has a retail newsstand.

Q. Charles Rutledge handles the "Pictorial Review"?

A. He is in the Y. M. C. A., in some capacity—janitor or something.

Q. He is the janitor at the Y. M. C. A.?

A. In some capacity there.

Q. Parson handles the "Call," and Carnine handles the "Bulletin"?

A. Yes, sir.

Q. Do you know anything about the dealings of Knapp with the "Pictorial Review"?

A. I know that under a little misapprehension, he took it over and discontinued it practically at once.

Q. What was that misapprehension?

A. He did not know he was prohibited by his contract.

Q. How many times did he handle it?

A. Once or twice, possibly.

Q. Was he under a misapprehension the second time he took it on?

A. He did not take it on again.

Q. Are you sure of that?

A. Just state the question plainly.

Q. He wanted to handle it at first, and he gave an order for it—for a certain number of magazines?

A. He must have given his order.

Q. And then he found out he was under this contract—that was the misapprehension in this case?

A. Yes, sir.

Q. He quit handling it then, did he not?

A. Yes, sir.

Q. Later on, he took it on again, did he not, in the name of his delivery boy—did he not take it on under a subterfuge the second time?

A. Not that I know of.

Q. Who handled it after he quit handling it?

A. I presume Rutledge.

Q. Was there not some one in between?

A. It was an old man—Shreves.

Q. Who was Shreves?

A. He had a retail newsstand that Mrs. Eschlemann has now.

Q. Did she take on the "Pictorial Review"?

A. I do not know.

Q. Eventually it came into the hands of Rutledge, this janitor.

A. Yes, sir.

Q. That was all done within a period of what time?

A. Since, possibly, May of last year.

Q. Of last year?

A. Yes, sir.

Q. This janitor still handles it?

A. He did the last time I was there.

Q. When were you there last?

A. Within the last three months?

Q. Now, in Phoenix, the Berry Hill Company is your agent and handles your publications, the "Digest," "Pictorial Review" and Curtis publications?

A. They were our agents.

Q. Under the old contract?

A. Yes, sir.

Q. Did they go under the new contract?

A. No, sir.

Q. What did you do there?

A. They violated their contract and took over the "Pictorial Review," and I made a transfer.

Q. Whom did you give it to?

A. Harry Herz, a newspaper man.

Q. He handles the "Los Angeles Examiner" and "Herald"?

A. Yes, sir.

Q. Harrison handles the "Los Angeles Times," and he is the only other newspaper man there?

A. Yes, sir.

Q. How big a place is Phoenix?

A. About 20,000.

Q. Do the "Examiner" and the "Herald" and the "Times" have a large circulation in that city?

A. I think they do. Herz has about doubled the circulation, I understand, since he has taken it over.

Q. In that town, do you know how many copies of "Posts" your man is handling?

A. About 1400, I should judge.

Q. And the 'Digest"?

A. I do not know.

Q. And of the "Pictorial Review" or "Collier's"?

A. I do not know.

Q. The Berry Hill Company did take on the "Pictorial Review," did they not?

A. Yes, sir.

Q. Who is your agent at Bisbee?

A. Mr. Ball.

Q. And he handles certain newspapers, the Hearst group and "Literary Digest" and your papers?

A. Yes, sir.

Q. He is still your agent there?

A. Yes, sir.

Q. Do you know whether he was ever asked to take on the "Pictorial Review"?

A. I could not say positively.

Q. Do you know whether he ever tried to take it on or not?

A. I do not know.

Q. You do not know anything about that?

A. I never asked about that.

MR. DALY: We offer this letter in evidence at this time (handing letter to Mr. Milburn).

MR. MILBURN: We have no objection.

MR. DALY: We offer this letter, dated May 4, 1917, written by J. M. Ball, druggist, to B. A. McKinnon, in reference to the "Pictorial Review."

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 204," and the same is as follows:

COMMISSION'S EXHIBIT, No. 204.

"THE REXALL STORE

KODAKS AND SUPPLIES

J. M. BALL

DRUGGIST

Bisbee, Arizona.

3/14/17

B. A. McKinnon,
New York City.
Dear Sir—

Will reply definitely to your letter in a few days.

We are agents for the Curtis publications, and think our contract forbids us from taking other agencies.

Yours truly,
J. M. BALL, Druggist."

By Mr. Daly:

Q. Ball handles the "Examiner" and the "Times," and a man by the name of French handles the "El Paso Times," and the Central Pharmacy handles another newspaper?

A. Yes, sir.

Q. In El Paso, your man is George E. Harrington, and he handles certain newspapers, the "Pictorial Review," the Warner group and the Curtis group?

A. Yes, sir.

Q. That is, at the time you made your investigation, on March 12, last?

A. Yes, sir.

Q. Did he handle Hearst's?

A. He handles a whole string of magazines.

Q. He handles a lot of other magazines besides?

A. Yes, sir.

Q. And in making this report, you did not put on, in all cases, all magazines every man handled?

A. All the important magazines.

Q. But all the small magazines he handled you would leave off?

A. Yes, sir; there are so many you could not list them.

Q. Hearst's is not a small one—it must have been an oversight in this instance?

A. Yes, sir.

Q. He is the only magazine wholesaler there?

A. Yes, sir.

Q. What did you do about him?

A. What do you mean?

Q. Is he your man there now?

A. He is under the old contract, at the present time.

Q. You have not changed him?

A. Not yet.

Q. Why?

A. He canceled his contract with the "Pictorial Review" people. He sent in notice of his cancellation, and until that becomes effective, he will not receive a new contract.

Q. You know whether he took on the "Pictorial Review"?

A. Yes, sir.

Q. You know his signature?

A. I might recognize it.

Q. Look at this (handing paper to witness).

A. I think that is his signature.

Q. You are satisfied that is his signature?

A. I think it is; yes, sir.

By Mr. Daly: We offer this letter in evidence.

By Mr. Milburn: We have no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 205," and same is as follows:)

Commission's Exhibit No. 205.

"Geo. V. Harrington
Publishers' Agent
El Paso Wholesale Magazine
and News Agency.
114 East Franklin Street.
P. O. Box 252
El Paso, Texas.

April 12th, 1918.

Mr. B. A. MacKinnon,
Mr. W. R. Young,

My dear Mr. MacKinnon and Mr. Young:

It was with a great deal of regret and the hardest telegram I ever sent of my having to re-

sign as your Agent I assure you both, but when you both consider the position, expense and conditions at El Paso, I know you will think that I done what I thought the very best no matter how hard it was for me to do it.

It was only a short time ago, Mr. MacKinnon that I answered your letter 'regarding if Curtis had said anything about my handling Pictorial Review and I answered you that they had not, and when Mr. Green their agent (whom Mr. Young met in my office on his last trip here), came in yesterday and put the 'Issue straight up to me' without any alternative that I must either handle 'Pictorial or Curtis' and when I told him as I did you Mr. Young that 'I was in the wholesale magazine business and that I would not give up Pictorial, and intended to wholesale any other magazine that was profitable enough to handle,' Mr. Green replied, that his orders were to cancel the agency then and there.' We discussed it pro and con just like you and I have done Mr. Young and his orders were the above. The Curtis Agency nets us now $103.75—and of course putting that against the Pictorial at $8—, in all fairness to me gentlemen, what else could I do.

If El Paso had enough population like Los Angeles, San Francisco or Oakland that the demand for Pictorial or any other magazine was thousands of copies for each, then of course I could afford to let Curtis go, but you know I would have to handle a good many magazine agencies that would pay a hundred dollars; after eliminating we'll say fifty dollars expense it leaves me another fifty dollars. I know you both have expected this 'Issue to be brought to a crisis' sometime and I was the 'victim.'

Regarding my resignation taking effect I told

Mr. Green, that It was business courtesy to give Pictorial ample time to secure a new agent, and that I would handle the next two issues, if you wished me to do so, and hope and trust by that time Pictorial Review and Curtis will be able to adjust this trouble for all time. Our business affiliations have been always so pleasant and every time I had to increase Pictorial Review we done it with double pleasure for both Mr. MacKinnon and you Mr. Young.

Again regretting exceedingly the necessity of my resignation and wishing you both continued success with Pictorial Review, I beg to remain

Most sincerely yours,

(Signed) GEO. V. HARRINGTON.

Copy of this letter sent to Mr. Young."

By MR. DALY:

Q. You are going to change him, are you not?

A. If, on the next visit, he is still handling Pictorial I will change him.

Q. How long have you been after him about that?

A. I think it was about the tenth of April when I spoke to him about it.

Q. In Deming, your agent sells the "Los Angeles Times" and the "Examiner"?

A. Yes, sir.

Q. There is no other agent there?

A. No, sir.

Q. There is a man there that sells the "El Paso Herald"?

A. Yes, sir.

Q. That covers that situation?

A. Yes, sir.

Q. In Silver City, your man handles the "El Paso Times" and the "Herald" and "Journal" and Fres-

no and other newspapers there, he handles your magazines?

A. Yes, sir.

Q. There is no other dealer there?

A. No, sir.

Q. In Clovis, your man handles the Curtis publications, and he is the only man there that handles anything, is he not?

A. Yes, sir.

Q. In San Bernardino, California, your man handles the "Examiner." How long has he been your agent?

A. It is a lady. She inherited it from her husband. He died.

Q. They were old people there?

A. He was.

Q. Do you know whether the "Pictorial Review" tried to get her or not?

A. I do not know.

Q. This man Billings who is there is a new man?

A. No, sir; he is the largest retailer in town.

Q. He handles the Crowell group, does he not?

A. Yes, sir.

Q. He is not a wholesaler at all, is he?

A. Except as so stated there.

Q. You mean he is a wholesaler and retailer?

A. Yes, sir.

Q. He also handles the "Literary Digest" and "Collier's"?

A. He is the largest retailer.

Q. At Santa Barbara, your man Inlow, handles the "Los Angeles Express and Tribune"?

A. Yes, sir.

Q. At Santa Anna, California, your man handles the "Los Angeles Times" and the Munsey group—is that correct?

A. Yes, sir.

Q. How long has he handled the Munsey group—some time back?

A. I think so; ever since possibly they shipped direct.

Q. He is under the old contract or the new?

A. Yes; under the new contract at the present time.

Q. At Porterville, your man handles the "San Francisco Chronicle"?

A. Yes, sir.

Q. At Pasadena, your representative handles the "Tribune and Express"?

A. Yes, sir.

Q. At Mesa, your agent handles the "Los Angeles Times" and the "Examiner"?

A. Yes, sir.

Q. At Brawley Speers, your agent, handles the "Times" and "Examiner"?

A. Yes, sir.

Q. At Coalinga, your man handles the "Times," the "Examiner," the "Republican" and——

A. Yes, sir.

Q. And there are no other newspaper or magazine wholesalers there?

A. Correct.

Q. At Tucson, was Gamble your agent?

A. He was the former agent.

Q. Is he still your agent?

A. No, sir; Otto Lincke is.

Q. Why did you change?

A. Mr. Gamble discontinued handling magazines in all ways.

Q. He only handled your magazines?

A. I mean retail; he sold out his agency to Robert Weisenmiller, who handles the "Pictorial Review"?

Q. Weisenmiller handles the "Pictorial Review"?

A. Yes, sir.

Q. Was he a former Curtis man?

A. He never was; we only recognize a man as an agent when he is under contract.

Q. Your man at Bakersfield handles nothing but the Curtis publications?

A. Yes, sir; we have a new man there. We changed the other man because his book store took too much of his time.

Q. You did that in order to get a better man?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Green, you stated that you had been objecting to the handling of the "Pictorial" by your agents for the last year. You understand that, for a long time prior to that, the Curtis Publishing Company stood on its contract and always required permission to be requested and granted?

A. Yes; that clause thirteen was always in the contract. I was referring to "Pictorial."

Q. There has been no change in the Curtis people's policy?

A. No, sir; not at all.

Q. In Ocean Park, who is your agent?

A. O'Bannon & Moody.

Q. And they also handle the "Los Angeles Examiner"?

A. Yes, sir.

Q. How many other newspaper wholesalers are there there?

A. Three others—Shoemaker, Carr and Peter Stadtler.

Q. And they handle Los Angeles papers, do they not?

A. Yes, sir.

Q. Each one of these newspaper wholesalers wholesales a different Los Angeles paper?

A. Yes, sir.

Q. Your agent handles the "Examiner," and Shoemaker handles the "Times," and Stadtler the "Tribune"?

A. Yes, sir; correct.

Q. In Yuma, there is another newspaper wholesaler in addition to Rodenbach, who is the Curtis agent?

A. Yes, sir; the "Tribune" man, I think.

Q. Will you tell me what papers he handles?

A. The "Los Angeles Tribune" and the "Los Angeles Express."

Q. And the Curtis agent handles the other two?

A. The "Los Angeles Times" and "Examiner"; yes, sir.

Q. Do you know with what magazines Rodenbach began with in the magazine business?

A. I am not positive whether he started with ours or not. I think not.

Q. How long has Conger been the Curtis agent at Douglas?

A. About two years, approximately.

Q. Do you know whether Schwichtenberg Brothers did business together?

A. They did; Otto started the business and took in his younger brother.

Q. And they delivered their magazines by the same means of delivery?

A. All the same.

Q. And when they had "Pictorial" it went out with the Curtis magazines?

A. Alfred delivered them all.

Q. It was handled in the same store?

A. Yes, sir; Alfred was the outside man.

Q. The firm was handling the "Pictorial" and also the Curtis at the same time?

A. They were; yes, sir.

Q. And there was another newspaper wholesaler at Pomona, was there not?

A. Yes, sir.

Q. Albert J. Brown?

A. Yes, sir.

Q. How are the Los Angeles newspapers wholesaled in San Pedro—by whom—give the name?

A. Earl Severe has the "Los Angeles Examiner," and Russell Borham the "Los Angeles Tribune" and "Express," and George Bolich has the "Los Angeles Times."

Q. What is the name of your agent?

A. You mean our present agent?

Q. At the time of the making of this report.

A. Hawthorne, of the San Pedro News Company.

Q. To whom did you change?

A. Edward Reese.

Q. What business is Reese in?

A. He is the salaried man for the "Los Angeles Herald," and gets a bonus on all his papers there.

Q. At Bisbee there are three newspaper wholesalers, are there not?

A. Yes, sir.

Q. Our agent and two others?

A. Yes, sir.

Q. Kearney is the Curtis agent at Long Beach?

A. Yes, sir.

Q. There are two other newspaper wholesalers?

A. Yes, sir.

Q. Who handles the "Pictorial"?

A. Coombs.

Q. Is he also one of the newspaper wholesalers?

A. I am not positive whether he is or not—yes, the "Los Angeles Times."

Q. In Long Beach, do the Los Angeles papers use different wholesalers?

A. Yes; Shorpsleeve has the "Los Angeles Tribune" and "Express."

Q. In Fresno, are the different San Francisco papers wholesaled by individual wholesalers?

A. Yes, sir; Mr. Knapp has the "San Francisco Examiner," Albert Pearson the "San Francisco Call" and P. K. Carnine the "San Francisco Chronicle" and "Bulletin."

Q. And Mr. Knapp appears on your report as the Curtis agent?

A. Yes, sir.

Q. That agency has been changed since then?

A. No, sir; Mr. Knapp is our agent.

Q. You have been asked about El Paso, where Mr. Harrington is the agent.

A. Yes, sir.

Q. He is also agent for the "Los Angeles Examiner" and "New York Times"?

A. Yes, sir.

Q. And there is another newspaper there, is there not?

A. It is so stated there; yes, sir.

Q. Mr. Green, you have been asked on cross-examination certain questions with reference to the following towns: Clovis, Roswell, Silver City, Brawley, Mesa and Coalinga?

A. Yes, sir.

Q. I should like to ask you whether, in each of those towns, the Curtis agent is the only magazine wholesaler there and wholesales only Curtis publications.

A. That is correct.

Q. You were asked on cross-examination with reference to the towns of Pasadena, Tucson, Bakersfield,

Portersfield, San Bernardino and Santa Barbara. I ask you if, in those towns, the Curtis agent wholesales only Curtis magazines, not counting newspapers?

A. That is correct.

Q. In these last towns I have last mentioned there is at least one other magazine wholesaler?

A. Correct.

Q. And in each of these towns I have last mentioned there are from one to three other newspaper wholesalers?

A. Correct.

Q. And through these towns just given in the list, the different San Francisco and Los Angeles newspapers are wholesaled by different newspaper wholesalers?

A. They are.

Q. Will you go over your reports and find out how many of the Curtis agents do not handle newspapers? You can give us that figure after lunch.

A. Very well.

Q. Did you ever consent to the handling of "Pictorial Review" by the Schwichtenberg firm?

A. I did not.

Q. What were you given to understand by them was the situation?

A. I was passive in the matter. Under instructions, nothing was said of the matter for some time—instructions from the home office.

Q. When you were leaving your district in *status quo*?

A. Yes, sir.

Q. Did you ever assure them they could handle it in the firm, in the name of the brother?

A. No, sir.

Q. When you were free to act, the agency was changed?

A. Yes; they were given thirty days' notice.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How long were you there before this controversy arose in your territory?

A. You mean in Pomona?

Q. In your whole territory—how long did you operate in the territory prior to the time this controversy arose?

A. With reference to the "Pictorial Review"?

Q. Yes.

A. In Southern California and Arizona — from the time I was working with the Curtis Publishing Company.

Q. How long were you superintendent of agencies?

A. About four years.

Q. And you covered this same territory?

A. Southern California and Arizona.

Q. During that period, how many instances can you cite where permission was asked and refused to take on other magazines by these wholesale dealers?

A. You refer to all magazines?

Q. Other magazines than the "Pictorial Review."

A. I could not say.

Q. Was there a single instance that you can recall?

A. I could not cite one.

Q. As a matter of fact, was it not the practice during that period in your territory for these wholesale dealers to take on magazines without asking permission?

A. I would not say that it was. I think, in the majority of cases, sanction was asked.

Q. In what cases was sanction asked?

A. Take the case of Los Angeles, Mr. Flanders—

Q. What about Mr. Flanders?

A. Mr. Flanders asked permission to handle "Literary Digest."

Q. Is not that after this controversy arose?

A. Oh, I misunderstood the question.

Q. I am asking about before.

A. Mr. Flanders asked before this controversy arose.

Q. What other instance? Did not the "Literary Digest" go independent about the same time the "Pictorial Review" did?

A. It was handled through the American News Company prior to that time.

Q. When he asked for the "Literary Digest," it was about this time and therefore not covering the period I am asking about.

A. You are referring to the time prior to a year from January?

Q. Yes.

A. I cannot cite any instances.

Q. Do you know of any cases where magazines were taken on by any of your dealers during that period—I am not speaking of the "Pictorial Review" or "Literary Digest" nor "Every Week"?

A. No; Mr. Knapp, I presume, took on some.

Q. What ones did he take on?

A. He took on several smaller ones—"Motion Pictures," possibly, and maybe the Munsey group.

Q. Now you are talking about Knapp—where is he?

A. Fresno.

Q. He took on Munsey's, you think?

A. Yes, sir.

Q. Did he ask permission of the company?

A. I could not say.

Q. You do not know?

A. I do not know positively.

Q. Did he talk to you about it?

A. My visits might have been four or five months between the time——

Q. Did this Los Angeles man ask permission to handle the "Literary Digest"?

A. He did.

Q. And got permission?

A. Yes, sir.

Q. You know that how?

A. From his statement.

MR. DALY: That is all.

By MR. MILBURN:

Q. They would not ask sanction of you, anyway, would they, Mr. Green?

A. No, sir; I could not give them sanction.

Q. You would not have the authority to grant sanction?

A. No, sir; the contract says sanction must come from the home office.

MR. DALY: I was not asking if they asked sanction of him.

EXAMINER MOORE: We will take a recess now until 2 o'clock.

(Whereupon, at 12.45 o'clock a recess was taken until 2 o'clock P. M. of the same day.)

(After recess, the hearing was resumed at 2 o'clock P. M. pursuant to the taking of noon recess.)

HARTLEY GREEN resumed the stand and testified further as follows:

By MR. MILBURN:

Q. Mr. Green, when we closed this morning, I asked you how many of the Curtis agents in your district do not handle wholesale any newspapers. Have you looked up that number for me?

A. I have.

Q. What is it?

A. Twenty-one.

By Mr. Daly:

Q. How many handle magazines, of that twenty-one?

A. Other magazines?

Q. Yes.

A. That do not handle papers—four.

Q. Now, as to these independent wholesalers in these towns that you have testified about, who handle magazines and your papers, did not the same conditions exist, and were not the same men in business the year before you made the investigation?

A. The same ones in business?

Q. Yes—there were no changes?

A. No; there may have been one or two instances, but I think practically about the same conditions existed as the year before.

H. W. Marks was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Mr. Marks, by whom are you employed?

A. The Curtis Publishing Company.

Q. In what capacity?

A. Field superintendent—superintendent of agencies.

Q. What district do you cover?

A. The southern half of Utah and Nebraska.

Q. Are you familiar with the towns in which the

Curtis Publishing Company maintains district agents in that territory?

A. Yes, sir.

Q. How long have you been superintendent?

A. I have been acting as superintendent about five years.

Q. How long have you been connected with the Curtis Publishing Company?

A. About eight years.

Q. Have you recently, at the request of the Curtis Publishing Company, made an investigation and made reports based on that investigation to the company, showing the wholesale situation throughout the district?

A. Yes.

Q. Can you tell me in how many of your towns is there only one wholesaler of magazines?

A. Twenty-six.

Q. And how many towns do you cover all told?

A. Forty.

Q. And how many agents?

A. Forty.

Q. How many of the forty agents wholesale only Curtis magazines, not including papers at all?

A. Twenty-seven.

Q. How many of your agents began the magazine business with Curtis magazines?

A. Thirty-seven.

Q. In how many of the towns where the Curtis agent handles other magazines is your agent the only wholesaler?

A. Eleven.

Q. How many of your district agents do not wholesale any newspapers at all?

A. Twenty-two—when I made my report—twenty-four now.

Q. In other words, you have made certain changes since the making of your investigation?

A. Yes, sir; two changes.

Q. In how many of the towns where there is only one wholesaler, does that wholesaler handle only Curtis magazines?

A. I do not quite catch that question.

Q. In how many of the towns where there is only one wholesaler, does that one wholesaler handle Curtis publications alone—have you made a computation of that?

A. Fifteen, I think, is the answer——how many of the towns have only one wholesaler—twenty-six, that is the answer to that. Then, your question is, how many of those twenty-six handle Curtis stuff alone?

Q. Yes.

A. Fifteen.

Q. And, of course, the balance handle others?

A. Yes, sir.

Q. In your report, you have excluded all of the wholesalers who handle Crowell and "Pictorial," and also the branches of the American News Company?

A. In my figures; yes, sir.

MR. DALY: No questions.

GEORGE H. LEWIS, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. By whom are you employed?

A. By the Curtis Publishing Company.

Q. What is your position?

A. Superintendent of agencies.

Q. How long have you been superintendent?

A. About two years.

Q. And what district do you cover?

A. Oregon and Washington.

Q. Are you familiar with that district?

A. I am.

Q. And the towns in which the company has agencies?

A. Yes, sir.

Q. Have you visited them all?

A. Yes, sir.

Q. And know the district agents there?

A. Yes, sir.

Q. Have you, during the past few months, made an investigation and reports to the company on the wholesale situation in your district?

A. Yes, sir.

Q. How many of the towns covered by you—within your district—how many towns did you cover?

A. Forty-two.

Q. Does that mean forty-two agents?

A. Yes, sir.

Q. In how many of these forty-two towns is there but one magazine wholesaler?

A. Thirty-four.

Q. And of the thirty-four, how many wholesale Curtis magazines only?

A. Twenty-six.

Q. How many of your agents wholesale only the Curtis magazines, not counting your newspapers?

A. Thirty.

Q. How many of your agents began the magazine business with the Curtis Publishing Company?

A. Forty-one.

Q. And in how many of the towns where the Cur-

tis Publishing Company's agent handles other magazines is he the only magazine wholesaler?

A. Eight.

Q. How many of your district agents do not wholesale any newspapers?

A. Twenty-nine.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What towns have only one news dealer—one wholesaler—and that dealer handles nothing except your magazines and other magazines?

A. In other words, you mean to say how many towns in which there is only one wholesaler?

Q. And where that wholesaler handles your magazine and other magazines and nothing else.

A. If I understand your question correctly, there are eight.

Q. What are they?

A. What towns?

Q. Yes.

A. Tacoma, North Yakima, Walla Walla, Port Angeles—those four are in Washington—Ashland, Oregon; Baker City, Oregon; Marshfield, Oregon, and Roseberg, Oregon.

Q. These eight towns had only one wholesaler when you made this investigation—is that correct?

A. Yes, sir.

Q. It was made along in the spring of this year?

A. Yes, sir.

Q. Would the same conditions prevail last spring, a year ago—were they the only wholesalers last spring, a year ago?

A. I should say yes.

Q. They were the only ones who were there at that time?

A. Yes, sir.

Q. Now, then, what other cities in your district in the spring of 1917 had wholesalers of this description; that is to say, handled nothing but your magazines and other magazines, if any, and was the only agent?

A. I do not know.

Q. Have you not been in the district for some time?

A. Yes, sir.

Q. And you do not know whether there are any other towns?

A. Where there is only one wholesaler handling our publications and other publications?

Q. Yes.

A. I do not know.

Q. In Marshfield, Oregon, your man handles the Curtis group and the Hearst group?

A. Yes, sir.

Q. And there is no other man there—is that correct?

A. As far as I know; yes, sir.

Q. How big a place is that?

A. Marshfield is about 3000.

Q. Now, in Roseberg, Oregon, your report shows that Shoemaker handles the Curtis group and there are no others; that is not one of the towns where the only wholesaler handles other magazines, is it?

A. There must be another sheet, I think. I would like to say that there is another pink sheet which does not agree with this (indicating) pink sheet.

MR. DOUGLAS: You mean you sent in a corrected sheet?

THE WITNESS: Yes, sir.

By Mr. Daly:

Q. Take Bakers City, Oregon; your man handles the Hearst group, "Pictorial Review," and others?

A. Yes, sir.

Q. Now, how long has he been handling the "Pictorial Review," do you know?

A. I should say about May of last year, I think.

Q. Is he your agent yet?

A. No, sir.

Q. Who is your agent there now?

A. We have no agent on a contract in Bakers City.

Q. Prior to taking on the "Pictorial Review," however, your man Adler was the only man in Bakers City?

A. Yes, sir.

Q. He was under your old contract?

A. Yes, sir.

Q. And you have not put him under the new contract?

A. Yes, sir.

Q. You are going to change him on account of the "Pictorial Review"—is that correct?

A. He has been removed already.

Q. In North Yakima, Schwab is your agent and handles the Hearst group, "Literary Digest" and others?

A. Yes, sir.

Q. He was the leading man there, was he not?

A. He was the only wholesaler.

Q. And you had him under contract?

A. Yes, sir.

Q. Have you changed him to the new contract?

A. No, sir; I have not?

Q. Why not?

A. He has been removed.

Q. Why did you remove him?

A. Because of a violation of his contract.

Q. What did he do?

A. He wholesaled magazines without the permission of the Curtis Publishing Company.

Q. What magazines?

A. "The Pictorial Review."

Q. Any other magazines—did he take "Every Week"?

A. I do not know.

Q. How big a place is North Yakima?

A. About 20,000.

Q. Port Angeles, your man there handled Munsey and yours?

A. Yes, sir.

Q. And he is the only wholesaler there, is he not?

A. Yes, sir.

Q. And you had him under contract?

A. Yes, sir.

Q. Both the old and new?

A. Yes, sir.

Q. How long was he there—for some time?

A. He has been there for some time, I should say.

Q. In Walla Walla, your man is A. A. Harman?

A. Yes, sir.

Q. He handles Hearst group, "Literary Digest" and others—I suppose by others you mean similar magazines?

A. Yes, sir.

Q. He was the only man there at the time you made this investigation?

A. Yes, sir.

Q. Who is A. M. Thompson, who handles the "Pictorial Review"?

A. A man who runs a stationery store, where Mr. Harmon also has his place of business.

Q. In the same building?

A. Yes, sir.

Q. Are they working together?

A. No, sir; they are in the same room, but not working together.

Q. Separate people?

A. Yes, sir.

Q. He is under the new contract—Harman?

A. No, sir.

Q. Why not?

A. Because I appointed a new agent.

Q. Why did you change him?

A. Because of violation of his Curtis contract.

Q. How did he violate it?

Q. By wholesaling other magazines, without the permission of the Curtis Publishing Company.

Q. What ones were they?

A. "Pictorial Review" and the Crowell publications.

Q. When did that happen—when did he do that?

A. For which publication do you ask?

Q. For both of them.

A. Well, he began to wholesale the "Pictorial Review," I think, about May or June, 1917, as far as I can remember. The Crowell group, he took on some time this year. I did not ask him particularly. He just merely said he has them.

Q. Why did you not change him before?

A. Because I was under instructions from the home office to let him rest for the time being.

Q. When did you get those instructions?

A. Some time early—about—I do not recall the exact date; somewhere about last summer.

Q. In July, was it not?

A. Something like that.

Q. Now, until you changed him, of course, he was the leading wholesaler in that city?

A. The only wholesaler.

Q. The only wholesaler?

A. Yes, sir.

Q. How many "Posts" did he handle?

A. About 575.

Q. How many "Journals"?

A. About 525.

Q. And how many "Country Gentleman"?

A. I think about eighty-five or eighty.

Q. Do you know how many "Pictorial Reviews" he handled"?

A. I do not know.

Q. In Tacoma, Murphy handles the Hearst group, yours, Munsey and "Literary Digest"?

A. Yes, sir.

Q. He is the only wholesaler there?

A. The only wholesaler located there.

Q. You had him under the old contract?

A. Yes, sir.

Q. Did you put him under the new?

A. I did.

Q. When did you do that?

A. I did that April 1st.

Q. How many retailers are there in that city?

A. I do not know exactly.

Q. Well, approximately?

A. Approximately sixty.

Q. He covers them all, does he not?

A. He does.

Q. Is he an efficient man?

A. I consider him so; yes.

Q. As a matter of fact, all the men you selected are supposed to be the most efficient men, from your standpoint?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Lewis, these eight cities listed by you, and about which Mr. Daly has questioned you, were specially selected from your list as cities where there were no other wholesalers, were they not?

A. Yes, sir.

Q. And taking them up in order, how many newspaper wholesalers are there in Tacoma?

A. There are two.

Q. In Walla Walla?

A. There are three.

Q. In Port Angeles?

A. There are three.

Q. North Yakima?

A. There are three.

Q. Bakers City?

A. There are three.

Q. Marshfield?

A. There are two.

Q. Now, will you give us the situation that exists at Ashland, from your knowledge?

A. From my knowledge, with a personal interview with Mr. Shoemaker, I was given to understand that he did not wholesale other magazines outside of ours.

Q. Have you since found out that he did?

A. Only through another pink sheet that was attached to that (indicating).

Q. There was a subsequent investigation made?

A. Yes; that was a subsequent investigation.

Q. So that you found out that the information which you got in the first place was erroneous?

A. Yes, sir.

Q. And he has been handling other magazines?

A. Yes, sir.

Q. And therefore is properly included in this list of eight cities?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. That situation was the same situation back in the winter of 1917?

A. As far as I know; yes, sir.

By MR. MILBURN:

Q. You have given us on the record the list or the number of your district agents who do not wholesale newspapers, have you not?

A. I have given the number.

Q. That was at the time of the making of the investigation?

A. Yes, sir.

Q. And you have given us also the number of your agents who wholesale Curtis magazines only?

A. Yes, sir.

Q. These computations you have made were based on this investigation and stand as of the date of this investigation—is that correct?

A. Yes, sir; absolutely.

Q. And they do not refer to the spring of 1917?

A. No, sir; or any time before that.

Q. But what you found out when you made your inquiry?

A. Yes, sir.

By MR. DALY:

Q. What were the conditions about these cities in January and February, 1917? I think you testified that the same conditions existed, did you not, in the winter of 1917?

A. Compared with what time?

Q. With the time you have testified about, of your investigation.

A. At the time I made the investigation?

Q. Yes.

A. I said, as far as I know, they are the same.

Q. If there had been any changes in Tacoma since that time——

A. In our agency?

Q. Yes.

A. We have the same district agent.

Q. How long has he been the district agent there?

A. About ten years.

Q. How long was your agent at North Yakima?

A. Several years.

Q. And at Walla Walla?

A. I think about three.

Q. And at Ashland, about how long?

A. I do not know; that territory was——

Q. Bakers City?

A. Several years.

Q. And at Marshfield?

A. Several years.

Q. And Roseberg?

A. I do not know how long.

Q. You do know in all of the cities except those two, they were there a long period of time before this investigation?

A. Yes, sir.

Q. What changes have you made since that time—since the winter of 1917?

A. In the eight cities?

Q. In this district.

A. How many transfers have I made?

Q. Yes.

A. I cannot answer that exactly; I would have to refer——

Q. Refer to whatever you have to.

MR. MILBURN: Can you give it approximately —pretty close to it?

By MR. DALY:

Q. How many changes have you made on account of their handling other magazines, and where were those changes made?

A. Bakers City.

Q. You have told about that.

A. Yakima and Walla Walla.

Q. They were the only changes in your district?

A. Yes, sir.

Q. Since when?

A. On account of other magazines?

Q. Yes.

A. Since I became superintendent.

Q. When was that?

A. About two years ago.

Q. In your district you cover forty-two cities?

A. Yes, sir.

Q. And your plan is to select the best representatives that can be had—is that correct?

A. According to my judgment; yes, sir.

Q. In how many instances, if any, have you taken on agents who were handling other magazines, since you have been up there?

A. In no instance that I can recall.

Q. Not a single instance?

A. No, sir.

Q. How did you find out as to who was the only wholesaler—I do not mean the only wholesaler, but I mean as to handling your magazines first—how did you gather that information?

2741

A. By personal interviews with the district agents.

Q. Your district agents?

A. Yes, sir.

Q. It is part of your business to keep in touch with these agents, to see that they do not handle "Pictorial" and "Every Week"—that is part of your business?

A. Yes, sir.

Q. And if they did, of course you would not permit them to handle yours—is that correct—you would inform your company as to that?

A. I would inform them they were handling the magazines and if they were handling it without the permission of the company, they would be violating their contract.

Q. Do you know of any cases where "Collier's" got permission in your district?

A. Not positively; no.

Q. Do you know of any cases where "Literary Digest" got permission?

A. Yes, sir.

Q. When did they get that—since this independent movement started?

A. It was since the "Literary Digest" withdrew from the American News Company; yes.

Q. In how many instances did that happen?

A. I know of three.

Q. Where were those?

A. Portland, Oregon, Tacoma, Washington—there are only two.

Q. Now, at Portland, who was the man there that got permission?

A. Mr. Bay.

Q. And at Tacoma, who was the man that got permission?

A. Mr. Murphy.

Q. Was he the man who was changed on account of handling "Pictorial Review"?

A. No, sir.

Q. Who was—who handles "Literary Digest" at Tacoma?

A. Mr. Murphy.

Q. He has not been changed, has he?

Q. No, sir.

Q. Prior to 1917, did anybody get permission to handle other magazines than yours in your district?

A. I do not know positively from my own knowledge that other agents secured permission to handle other magazines, but I think they must have, because they are handling other magazines.

Q. Did you, in any way, ever object to the handling of "Hearst" magazines by your agents?

A. No, sir.

Q. As a matter of fact, you were instructed not to?

A. No, sir; I never had any instructions on that at all.

Q. Did you ever receive Bulletin 265, which is Commission's Exhibit No. 194?

A. I have received that bulletin, and I wish to qualify my statement to say that I had in mind, any particular instance or particular agent; that is to say, I understood your question, or interpreted your question, to mean any particular agent. I received that bulletin; yes, sir.

Q. Then, you got instructions not to interfere with the Hearst publications?

MR. MILBURN: That is where they had an arrangement with the "Hearst" magazines before, according to the testimony in the case, and that bulletin also——

MR. DALY: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. You received instructions not to interfere with any arrangement made by any publisher, which arrangement was made with any of our district agents prior to the time he took over our agency?

A. Yes, sir.

Q. That covered "Hearst's" and all?

A. Yes, sir.

Q. These applications for sanction are not made to you, are they?

A. No, sir.

Q. You have no authority to grant them?

A. Absolutely none.

Q. Those applications are made to the home office in Philadelphia?

A. Yes, sir.

Q. And may or may not be communicated to you?

A. Yes, sir.

Q. You had some trouble with Murphy in Tacoma?

A. Yes, sir.

Q. What was that?

A. With reference to circulating other magazines?

Q. Yes; there was some trouble between the "Pictorial," Murphy and yourself—will you let us know what that was?

A. Mr. Murphy was away on his visit to Honolulu. While he was gone Mr. Young and Mr. George L. Eder, of Seattle, paid a visit to Mr. Murphy's office in Tacoma. While there, they made arrangements with Mr. Murphy's son to take on the "Pictorial Review," and prepared notices to the dealers who were outside of Tacoma, soliciting their orders for "Pictorial Review." As Mr. Murphy was returning from Honolulu he

stopped off at our office in San Francisco and there learned of this arrangement. He immediately disavowed the arrangement, and gave up the agency. Does that fully answer your question?

Q. And during the father's absence, did the son actually distribute "Pictorial," if you know?

A. I do not know.

MR. MILBURN: I think that is all.

MR. DALY: That is all.

OSBORNE ADAMSON, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you associated with the Curtis Publishing Company?

A. Yes, sir.

Q. In what position?

A. Superintendent of agencies.

Q. How long have you been superintendent of agencies?

A. Three years.

Q. And what district do you cover?

A. The western section of South Dakota, northern section of New Mexico, the Panhandle of Texas, the States of Montana, Idaho, Utah, Wyoming and Colorado.

Q. And how many towns in that territory have district agencies?

A. Sixty-one.

Q. And are the sixty-one separate agents?

A. Yes, sir.

Q. And are you familiar with this district and those district agencies?

A. Yes, sir.

Q. And have you made personal visits to the towns and seen the agents?

A. Yes, sir.

Q. And have you recently made an investigation at the request of the company and made reports based on your investigations?

A. Yes, sir.

Q. And that was addressed to the general wholesale situation?

A. Yes, sir.

Q. In how many of the towns covered by you, is there only one wholesaler?

A. Forty-five; that is, magazine wholesalers.

Q. How many of your agents wholesale only Curtis magazines--and again, I am omitting all mention of newspapers.

A. Exclusive of newspapers?

Q. Yes.

A. Forty-eight.

Q. How many of your agents began the magazine business with the Curtis magazine?

A. Sixty.

Q. In how many of the towns where the Curtis agent handles other magazines is that agent the only wholesaler?

A. Ten.

Q. In how many of the towns where there is only one wholesaler does that wholesaler handle only Curtis magazines?

A. Thirty-five.

Q. Has the Crowell people endeavored to get your agents at Great Falls and Butte to handle Crowell publications?

A. Yes, sir.

Q. How did they do that?

A. They went to the Butte agent—that is Keefe

Brothers, and the representative of the Crowell Company told them that the Curtis agent at Lincoln, Nebraska, had taken the Crowell agency and there was no objection to it by the Curtis Publishing Company.

Q. That is not correct, is it?

A. No, sir.

Q. In whose district is that?

A. Mr. Mark's district.

Q. Do you know whether or not the agent at Lincoln, Nebraska, had taken it on?

A. I do not know; I heard Mr. Marks say.

Q. You only know what Marks said?

A. Yes, sir.

Q. How about Great Falls?

A. At Great Falls, the Crowell agent told our agent that the Keefe Brothers at Butte had taken on the Crowell agency.

Q. Had they taken it at that time?

A. They have not taken it up to now.

Q. Do you know whether the "Pictorial Review" representative endeavored to get the Curtis agent at Ogden and Butte to handle "Pictorial," and under what circumstances?

A. Yes, sir; at Ogden, Mr. Zim, our agent, told me Mr. Young, the representative of the "Pictorial," had approached him in regard to taking the agency for the "Pictorial," and, at the same time, stated at the same time that the Curtis Publishing Company raised no objection.

Q. How about Butte?

A. Keefe Brothers of Butte——

Q. Is that a similar situation?

A. No; I do not know that Mr. Young made that statement there.

Q. They just endeavored to get the Butte agency and they would not take it?

A. Yes; they asked the Butte agency to take it and they would not.

Q. And you have made certain changes in your district because agents have taken on "Pictorial" or the Crowell publications?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Name these ten cities where these only wholesalers are that handle other magazines and yours.

A. Grand Junction, Bozeman, Butte, Forsythe, Great Falls, Lewiston, Miles City, Deadwood, Amarilla, Texas and Provo, Utah.

Q. Great Falls is one of the places where there is but one agent, and that is the place where you testify the Crowell man went and asked your agent there to handle other magazines—is that correct?

A. Yes, sir.

Q. When did that happen?

A. About three weeks ago.

Q. And he is the only man there, is he not, that handles magazines?

A. It is a Mrs. Dunning.

Q. What magazines does she handle besides yours?

A. I am not sure of the full list, but I know she handles "Collier's," the Warner group, "Pictorial," and handles Crowell's now.

Q. At the time this man approached her, what did she handle?

A. All that had broken away and had become independent.

Q. And she was your agent?

A. Yes, sir.

Q. You are making a change out there?

A. Yes, sir.

Q. How long has she been your agent there?

A. I do not know; she was agent when I took over the territory.

Q. When was that?

A. In the beginning of 1916.

Q. She was under the old contract which has been testified about?

A. Yes, sir.

Q. Did you put her under the new contract or not?

A. No, sir.

Q. You are changing the agency there because she is handling these independent movement magazines?

A. Yes, sir; she violated the contract in handling Pictorial."

Q. At Butte, who was your agent there?

A. Keefe Brothers.

Q. They handle what?

A. "Collier's," "Literary Digest," the Hearst publications, and, I think, the Warner group; I am not sure, but I believe so.

Q. You say "Pictorial Review" tried to get them?

A. Yes, sir.

Q. Did the Crowell people try to get them, too?

A. Yes, sir.

Q. Were they successful?

A. No, sir.

Q. Why?

A. They followed out the contract and sought the permission of our company.

Q. And your company did not give permission—is that correct?

A. Yes, sir.

Q. How large a place is Great Falls?

A. About fourteen thousand.

Q. And how large a place is Butte?

A. Forty-four thousand.

Q. Is that Mr. Keefe's signature to that letter? (Handing paper to witness.)

A. I do not remember ever seeing Mr. Keefe's signature.

Q. At Forsythe, who was your agent early in 1917?

A. Ketzenstein.

Q. Is he still your agent?

A. No, sir.

Q. When did he drop out?

A. About three weeks ago.

Q. Why did he change?

A. I changed him because he would not make his reports and, because he wanted to be released of the agency.

Q. Do you know whether or not "Pictorial Review" ever tried to get him to handle their publication?

A. I do not know.

Q. In 1917—January, February and March—he was the only agent there, was he not—he was your agent there?

A. For the Curtis Publishing Company?

Q. Yes.

A. Yes, sir.

Q. What else did he handle?

A. He is the only one who handles magazines in that town.

Q. What magazines did he handle?

A. I think he was handling Hearst's publications and all those that the regular news dealer——

Q. How big a place is Forsythe?

A. Two thousand.

Q. And who is the dealer there now?

A. A man by the name of Deadman.

Q. What magazines does he handle?

A. Just the Curtis magazines.

Q. Who took on the other magazines?

A. I presume that Mr. Ketzenstein still retails magazines.

MR. DALY: We offer a letter dated April 5, 1917, addressed to Mr. Mackinnon of the "Pictorial Review," and written by L. P. Keefe, of Butte, Montana, with reference to that dealer.

MR. MILBURN: No objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit No. 206," and the same is as follows:)

COMMISSION'S EXHIBIT No. 206.

"Bell 'Phones 1230—1486

San Francisco Examiner Agency
Pictorial Review Patterns
U. S. Postal Station
Post Office News Stand
Keefe Bros., Proprietors.
Wholesale and Retail Dealers in
Stationery, Periodicals, Books, Souvenirs,
Novelties, etc.
We can supply you with anything in print.
25 West Park Street

Butte, Montana, April 5, 1917.

Mr. B. A. Mackinnon,
Circulation Manager,
The Pictorial Review Co.,
New York City.

Dear Mr. Mackinnon:

We have delayed answering your letter of some time ago concerning distribution of Pictorial Review in this city, for the reason that we didn't have very much to say, as the proposition as far as we are concerned, seems to be closed.

Douglas himself stated that if there was any

place in the United States that he would be in favor of making an exception, it was right here. This was in answer to our letter, which was an urgent one, requesting him to allow us to wholesale Pictorial Review. We explained to Douglas that our retail sale of Pictorial Review covered 90% of the distribution in this city. This is a fact. We explained further to him that it represented quite a considerable saving to us to be able to buy at the wholesale price, instead of paying the long price.

Our present order on Pictorial Review is six hundred copies, every one of which we sell. That is our May order and we believe we will sell out completely, as we did on the April number. Not a single return. You have means of finding out, or probably know your total retail sale in this city and when we say that we sell 90% of the copies that are sold at retail we think we are not overstating the case.

Of course, you will understand that our dealings with the Curtis people have been pleasant and profitable and we are slow to pick a quarrel or antagonize those with whom our dealings are satisfactory and pleasant. That is the reason that we went about this matter as carefully as we did. We weighed it carefully and looked at *it* from every angle and the conclusion that we came to was that it would be unwise to quarrel with the Curtis people, especially after they had made their case so plain to us.

"The fact of the matter is, that if we took over the wholesale distribution of the Pictorial Review from the standpoint of dollars and cents, you folks would not be the gainer, for the reason that the lower price that we would pay you for the magazines would not balance up for the addi-

tional copies that would be sold. The difference between the price that we now pay which is $12.00 a hundred, f. o. b. Butte and the price that we would pay buying at wholesale, would be very considerably in our favor in the course of a year. The amount that we would gain, however, would not be enough to pay us for the loss we would incur by the loss of the Curtis Agency. We think it would be advisable to continue to supply us as you have been doing and if you could see your way clear to make us a better price than the twelve cent price which we now pay, we would appreciate it very much indeed. By doing this you would encourage us to push the sale of Pictorial Review even more than we are now doing. We would feel that we had some little return for our effort. We realize of course that our Pattern Department is strengthened in proportion to our sales.

"Our business relations with the Pictorial Review have been quite satisfactory for many years. We have been requested to substitute other patterns at different times. Other pattern agencies in this town have been changing. First they would put in one and then they would put in another. Ours has been always Pictorial Review and we will venture to say more Pictorial Review patterns are sold than any other kind and we know as far as our retail sale goes that Pictorial Review will not take a back seat from any other womans publication that we handle and we are looking forward to see Pictorial Review outstrip them all from the point of sales. We also are very much pleased indeed with the advertising you sent us on the May number, and we feel that six hundred copies will not be enough to supply the demand. We believe we could have sold fifty more of the

April number but of course we will soon be having warm weather, the people will be getting out more and it is only reasonable to suppose that after a long cold winter people will not buy magazines and reading matter as much as they have in the past five or six months.

Trusting this will explain our situation.

Very truly yours,

KEEFE BROS.

(Signed) L. P. Keefe."

By MR. DALY:

Q. At Lewiston, early in 1917, who was your man there?

A. Mrs. Fred Anderson.

Q. What did she handle?

A. The Hearst publications, and "Collier's"—I think that is all.

Q. And she was the only one there, was she not?

A. Yes.

Q. And you had her under contract with your company?

A. Yes, sir.

Q. Is she under the new contract?

A. Yes, sir.

Q. She still handles the same papers?

A. Yes, sir.

Q. And is the only agent there?

A. Yes.

Q. In Miles City, who was your agent there?

A. Oscar Ball.

Q. What did he handle?

A. I think only the Hearst publications.

Q. And yours?

A. Yes, sir.

Q. That was the condition in 1917—early in 1917?

A. No; he bought out a man in the latter part of 1917.

Q. And what did the man handle that he bought out?

A. I think he handled the same magazines.

Q. And took over the same agency?

A. Yes, sir.

Q. And that man had been there for some time?

A. He was in the territory when I went on it in 1916.

Q. He was the only man there?

A. Yes, sir.

Q. Is this new man under the new contract?

A. Yes, sir.

Q. Now, at Deadwood, who was the man there in 1917?

A. Van Meter.

Q. What did he handle?

A. The Hearst publications, "Collier's," and, I think he also handled "Pictorial."

Q. Well, early in 1917 he did not handle "Pictorial"?

A. No; I would not be sure about that, without having the pink sheets.

Q. Is Van Meter your agent there now?

A. Yes, sir.

Q. He handles "Pictorial Review"?

A. Yes, sir.

Q. How long has he been handling that?

A. I do not know; he was handling that, I think, when I was there last.

Q. Have you seen him about the agency?

A. No; I have not come to that point yet.

Q. When did you see him last?

A. Oh, I think it has been before Christmas—about November.

Q. He handles the Warner group, "Literary Digest," "Pictorial" and "Hearst's," and is the only man there?

A. Yes, sir.

Q. How did you find out he was wholesaling "Pictorial Review"?

A. I went to the other dealers in the town and asked them where they were getting their magazines from.

Q. What did they say to you?

A. They told me Mr. Van Meter was supplying them.

Q. Where did Van Meter get them from—did you ask Van Meter about that?

A. No.

Q. Now, then, he was the agent there for a long time back, was he not?

A. He was the agent when I went on the territory in 1916.

Q. He is not under the new contract?

A. No, sir.

Q. At Bozeman, Wilson & Company handle the Hearst group, "Literary Digest" and your publications?

A. Yes, sir.

Q. And you show here "Pictorial Review"—when did they take on "Pictorial Review"?

A. Some time last year; I do not know just when.

Q. And you have not changed them?

A. No, sir.

Q. How many times have you been up there since they have had the "Pictorial Review" on?

A. Once.

Q. When was that?

A. Two months ago.

Q. Have you made any efforts to change the agency?

A. No, sir.

Q. Wilson has been there since you have been in that territory?

A. Yes, sir.

Q. And he was under the old contract?

A. Yes, sir.

Q. And he is not under the new one?

A. No, sir.

Q. At Billings, your man is Enos, and he handles the Hearst group and "Collier's"—do you know how long he has handled "Collier's"?

A. No; I do not know.

Q. Casey is the man who handles "Pictorial Review," the Warner group and "Literary Digest"?

A. Yes.

Q. When did he start?

A. Some time last year, wholesaling.

Q. Since this independent movement started?

A. Yes, sir.

Q. And prior to that time, you had the only man there—is that correct?

A. Yes, sir.

Q. And he had been there since you have been in the district, which extended back to 1915 or 1916?

A. 1916; yes, sir.

A. At Provo, Utah, Walter handles the Hearst group, "Literary Digest," your group, and there is no one else there, and he has been your agent for a considerable period—is that correct?

A. Yes, sir.

Q. Have you put him under the new contract?

A. Yes, sir.

Q. When did you do that?

A. About four months ago.

Q. In Miles City, Montana, your man handles the Hearst group as well as yours; there is no one else there—is that correct?

A. Yes, sir.

Q. And that was the condition for some time back, while you have been in the territory?

A. No; he bought out the agency from another man last year.

Q. And that other man was the agent there that handled the same magazines; is that correct?

A. Yes, sir.

Q. And was in business for some time prior to that?

A. Yes, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. When did you put him under the new contract?

A. About three weeks ago.

Q. At Lewiston, Montana, Mrs. Fred Anderson handles the Hearst group, "Literary Digest" and yours, and she is the only one there and has been for a long time?

A. Since I have been in the territory.

Q. Is she under the new contract?

A. Yes, sir.

Q. Amarillo, Texas, Winckler is your agent and handles your group, Hearst group, "Pictorial Review" and "Literary Digest," and the Warner group; when did he take on the "Pictorial Review"?

A. I do not know.

Q. Have you changed him?

A. No, sir.

Q. When did he take on the Warner group?

A. I do not know.

Q. And the "Literary Digest"?

A. I do not know.

Q. He took all of them on since the independent movement?

A. I could not tell you.

Q. He could not have taken them on before, be-

cause the testimony shows that the American News Company handled these magazines.

A. Yes, sir.

Q. Winckler has been there for quite a period of time?

A. Ever since I have been in the territory.

Q. And you had him under your old contract?

A. Yes, sir.

Q. Is he under the new contract?

A. No, sir.

Q. Are you going to change him?

A. Yes, sir.

Q. What changes have you made in your territory outside of the ones I have talked about here?

A. Since when?

Q. Since you have been in the territory.

A. I could not tell you.

Q. Well, say in 1917, what changes did you make? Confine your answer to changes on account of magazines; that is, because they handled "Pictorial Review" or "Every Week."

A. As far as I can recollect, three.

Q. What are they?

A. Denver, Grand Junction and Great Falls.

Q. Great Falls you have testified about; at Grand Junction what happened?

A. The agent there was handling—was violating the contract in handling "Pictorial."

Q. When did you make that change?

A. About two months ago.

Q. Is he still there in business?

A. Yes, sir.

Q. Whom did you take on there in his place?

A. We took on a drug company; I can not remember the name of the drug company now.

Q. Did they handle anything else in the magazine business?

A. No, sir; just retailers.

Q. I think you said you tried to get the best man in every community?

A. Yes, sir.

Q. Do you know how many "Posts" circulate in your territory?

A. No, sir.

Q. Or "The Ladies' Home Journal"?

A. No, sir.

Q. And what promotion work do you do?

A. Just the general line of commercial work.

Q. Is it part of your duty to see these retailers?

A. Yes, sir; visit the retailers.

Q. Why do you go to the dealers?

A. To find out if they have any complaints to make or suggestions to make.

Q. And you do that as frequently as possible?

A. Yes, sir.

Q. When they make complaints to you, what do you do?

A. I take them up with the district agent.

Q. Take them up with the agent and try to straighten them out?

A. Yes, sir.

Q. That is a very important part of your work?

A. Yes, sir.

Q. And the more you do of that the better it is for your company—the closer touch you keep in with these retailers——

A. Yes, sir.

Q. Your circulation is increased, I suppose, by your efforts in that direction, is it not?

A. I would not say so, altogether.

Q. Why do you do it, then? Is it not for the purpose of keeping a tab on these men to see that they are getting a full supply of magazines and pushing sales?

A. To let them see we are interested in the mat-

ter. I do not think it increases the circulation particularly.

Q. Your testimony then, is different from everybody else's in this case.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. These ten towns, that Mr. Daly questioned you about, were especially selected from your sixty-one towns as places where there was only one wholesaler and who is the Curtis agent and who handled other magazines?

A. Yes, sir.

Q. And they were especially selected from your list as being towns wherein there was one wholesaler and that wholesaler was the Curtis agent, and that he handled magazines other than the Curtis magazines?

A. Yes, sir.

Q. And those are the only ten towns of your sixty-one where that precise condition exists?

A. Yes, sir.

Q. And you mentioned one man buying out another; I want you to explain what you mean by that. You do not mean buying out the Curtis agency?

A. No, sir; buying out the business.

Q. Buying the store or whatever he was handling?

A. Yes, sir.

Q. Then the new man would have to apply to the company to see whether the Curtis Publishing Company would transfer the agency to him?

A. Yes, sir.

Q. And if he was a suitable man they would do so?

A. Yes, sir.

Q. And if he was not a suitable man they would refuse?

A. Yes, sir.

MR. MILBURN: That is all.

MR. DALY: That is all.

H. W. MARKS, recalled as a witness, testified further, as follows:

By MR. MILBURN:

Q. Mr. Eric Nelson when on the stand testified to a conversation which he had with Mr. Rankin and testified that you were present at the conversation; do you know of the conversation to which I refer?

A. I think I do; yes, sir.

Q. You heard Mr. Nelson testify?

A. Yes, sir.

Q. Were you there and present at the time?

A. Yes, sir.

Q. Where was Marshall Brothers located, what city?

A. At Sioux City, Iowa.

Q. Do you know whether they were offered a Crowell contract?

A. Yes, sir.

Q. Did they show it to you?

A. Yes, sir.

Q. Do you know whether that is a copy of it? (Handing paper to the witness.)

A. Yes, sir.

MR. MILBURN: I offer that in evidence.

MR. WELCH: That is not the exact contract; it is a contract similar to that.

THE WITNESS: That was the question, was it not, whether it was a contract similar to that?

MR. WELCH: Yes.

THE WITNESS: Yes, sir.

By MR. DALY:

Q. Is this the contract that the Crowell man had there?

A. No, sir; it is an exact duplicate of the contract.

Q. How do you know that?
A. Because I got the contract.
Q. Where is it?
A. I have not got it with me.

MR. DALY: There is no objection to that.

(The paper referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 32," and the same is as follows):

RESPONDENT'S EXHIBIT No. 32.

"Date March 4th 1918 City Mattoon State Ill.

AGREEMENT entered into as of this date, by and between THE CROWELL PUBLISHING COMPANY, hereinafter called the 'Publisher,' and..... ..... hereinafter called the 'Distributor,' as follows:

1. The Publisher hereby appoints the Distributor to make a wholesale distribution to newsdealers and boys of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE in above named city, and agrees:

2. To ship copies prepaid direct to the Distributor from the Publisher's Plant at Springfield, Ohio, at the regular wholesale prices fixed by the Publisher from time to time. Copies to be delivered to the Distributor, unless unforeseen difficulties prevent, in time for distribution on the on-sale dates authorized by the Publisher.

3. To accept from the Distributor full returns of unsold copies of EVERY WEEK and FARM AND FIRESIDE of the first eight issues and of the WOMAN'S HOME COMPANION and THE AMERICAN MAGAZINE, the first two issues; after which time to ac-

cept 20% full front covers, charged prepaid, to reach the News Company within three weeks from the on-sale date of EVERY WEEK and within six weeks of the on-sale dates of the monthly magazines.

In consideration of the foregoing, the Distributor accepts the appointment and agrees:

4. To sell copies of the above publications to newsdealers and boys at the regular sub-agents' prices fixed by the Publisher from time to time, these copies to be re-sold by newsdealers and boys to single copy customers at the full retail prices, but to sell no copies in advance of the sale dates authorized by the Publisher. Returns of unsold copies to be accepted from newsdealers and boys at the same prices charged.

5. That, if the Distributor has a credit account with the News Company through which he draws, he will pay his Crowell Account in the usual way. If he has no account, he will remit in advance with order, in accordance schedule shown on order blanks, and further that payment for copies and returns of unsold copies will be made to the American News Company, or a branch thereof.

6. THIS AGREEMENT, and the bond executed on the back hereof, when ratified by the New York Office of the CROWELL PUBLISHING COMPANY, are to remain in effect for one year from date, and to continue thereafter, until terminated by thirty days' written notice given by either party to the other after the expiration of said year. If however, the Distributor should fail to carry out this agreement to the satisfaction of the Publisher, or fail otherwise properly to conduct the agency. The Publisher shall have the right to cancel this con-

tract without notice, and to appoint another Distributor in his place.

.....
Distributor

W. H. Stafford
Representing The Publisher

Ratified and accepted by THE CROWELL PUBLISHING COMPANY,
By.....Date.....
C 6

(On a separate page):

(Rubber stamp): Received Mar 7 1918 F. M. B.

CASH BOND

City..... State..... Date.....

KNOW ALL MEN BY THESE PRESENTS: That I, the undersigned, designated in the agreement, executed on the back hereof, of which this bond is a part, as the "Distributor," am held and firmly bound unto THE CROWELL PUBLISHING COMPANY, doing business in New York City, State of New York, in the sum of ..... dollars ($.....), lawful money of the United States, paid this day unto THE CROWELL PUBLISHING COMPANY.

WHEREAS: The Distributor has entered into foregoing agreement in writing with THE CROWELL PUBLISHING COMPANY for the sale of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE.

THE CONDITION of this obligation is that if the Distributor shall well and truly, honestly and faithfully perform the conditions of the agreement, by the Distributor to be performed, and to pay to THE CROWELL PUBLISHING COMPANY, on its order, all moneys that may become due from the Distributor thereunder, then this obligation shall be void and

the above cash bond is to be returned to the Distributor, together with interest at 5% per annum, otherwise this cash bond, in whole or in part, may be retained for reimbursement by THE CROWELL PUBLISHING COMPANY without notice.

Date.....

.....

Signature of Distributor.

PERSONAL SURETY BOND

City Matoon State Ill. Date March 4th 1918

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, principal and surety, are held and firmly bound unto THE CROWELL PUBLISHING COMPANY, of NEW YORK, in the sum of Fifty Dollars ($50.00/100) lawful money of the United States, to be paid unto THE CROWELL PUBLISHING COMPANY, its successors and assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents.

WHEREAS: The principal (otherwise known as Distributor) has entered into an agreement in writing with THE CROWELL PUBLISHING COMPANY for the sale of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE.

THE CONDITION of this obligation is that if the Distributor shall well and truly, honestly and faithfully, perform the conditions of said agreement by the Distributor to be performed, and pay to the said THE CROWELL PUBLISHING COMPANY or its order, all moneys that may become due from the Distributor thereunder, then this obligation

shall be void, otherwise to remain in full force and effect.

Date.....

....

Signature of Surety Signature of Distributor

Address..... Address....."

By MR. MILBURN:

Q. Do you know whether or not the Crowell Publishing Company endeavored to get the agency at Fremont, Nebraska, and Sioux City, Iowa, to handle the Crowell magazines through their boys?

A. It was stated to me by the district agent that that was the specific man they wanted, because he had the boy organization.

MR. DALY: Who were those district agents?

THE WITNESS: Walter Hauser, Fremont, Nebraska, and Marshall Brothers at Sioux City, Iowa.

By MR. DALY:

Q. When did they tell you that?

A. About six weeks ago.

Q. Who was the Crowell man who went there?

A. Arndst.

Q. When did this conversation occur that you and Rankin had with Nelson?

A. It occurred about ten o'clock in the morning; I did not have the conversation, if you please.

Q. You did not have it?

A. I was present during the conversation between Mr. Rankin and Mr. Nelson.

Q. You were there, were you not?

A. I most certainly was.

Q. This man Rankin took you along to have this conversation?

A. I happened to be in the office.

Q. What was the conversation about—boys?

A. There was not any conversation about boys.

Q. Well, what was the conversation?

A. The conversation was to the effect that Mr. Nelson should take the "Pictorial Review" contract because of the fact that Baron & Molaski of St. Louis, who was the Curtis agent, and Katze of Kansas City, who was the Curtis agent at that time, had taken it over.

Q. How did this Crowell proposition get into it?

A. Into what?

Q. Into the conversation.

A. It did not get into the conversation.

Q. What was the Crowell incident?

A. I just mentioned it.

Q. When was that contract presented?

A. I do not understand your question.

Q. Where did you get that contract? (Indicating paper.)

A. It was handed to me by George Marshall, of Marshall Brothers, of Sioux City, Iowa.

Q. Who is he?

A. Our district agent.

Q. What does he handle?

A. Numerous magazines.

Q. He represents other magazine people as well as your company?

A. Yes, sir.

Q. And what other dealers are in that town?

A. I do not get your drift about retailers.

Q. I said dealers.

A. (Continuing.) You mean retail dealers?

Q. I mean wholesale dealers.

A. I cannot answer that, but I think there is a "Pictorial" wholesaler there.

Q. There is none besades the Pictorial Review

man—do you know whether Rankin had another conversation with Nelson about this thing before you got there?

A. Nothing before; after that, he had a conversation.

Q. Look at your pink sheet and see what is shown there.

A. Marshall Brothers and J. Reeves, who handles the "Pictorial Review."

Q. What were Marshall Brothers handling?

A. The Curtis group, the Hearst group and the Munsey group.

Q. You objected to the Crowell Publishing Company asking these people to sell their magazines?

A. I do not catch your question.

Q. You objected to the Crowell people asking the Marshall people to handle their magazines?

A. I did not say I made any objections. I said Marshall handed me the contract.

Q. You object to that, as a representative of the Curtis Publishing Company?

A. I believe so; yes, sir.

Q. Why, of course you do. You know that. Now, then, when did you get into Omaha?

A. That has been so long ago I cannot answer that correctly.

Q. That is an important matter. Cannot you refresh your memory?

A. I was there—that is my home.

Q. Are you sure you were there that morning?

A. Yes, sir.

Q. Where had you been the day before?

A. That is an awfully hard question to answer.

Q. Do you know?

A. No; I do not know, but my daily call reports at the home office will answer that.

Q. They will show that?

A. Yes, sir.

Q. You say you were in the town the morning of that date—the morning that Rankin was there—and that you heard the conversation?

A. Yes, sir.

Q. You are sure it was not in the afternoon?

A. It was in the morning.

Q. You were there in the afternoon, too?

A. Yes, sir.

Q. Both morning and afternoon?

A. Yes, sir.

Q. You are very positive about that?

A. Yes, sir.

Q. Do you know whether Rankin and Nelson had a conversation that morning before you arrived there?

A. No, sir; I do not know that.

Q. You do not know that?

A. No, sir; but it does not seem to me that they would shake hands and say "How do you do"——

Q. Never mind; I ask that that be stricken out. Do you know whether Rankin came to Nelson's place in the afternoon?

A. Now, in answer to that I will say that I do not believe he did, because if he had gone he would not be alive now, I do not think.

Q. What did Rankin say over the 'phone?

A. He insulted him over the 'phone.

Q. How do you know?

A. Because I was present when Eric was talking to him, and when he got away from the 'phone he was very nervous and unstrung.

Q. What did Rankin say over the 'phone?

A. I was not listening in.

Q. Did not Nelson tell you?

A. I heard him say he was a deliberate liar.

By Mr. Milburn:

Q. Did you see Nelson and Rankin when Rankin came in?

A. Yes, sir.

Q. What did they do?

A. They shook hands and said, "How do you do"?

R. C. McLarty, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Mr. McLarty, are you connected with the Curtis Publishing Company?

A. Yes, sir.

Q. What are you?

A. Superintendent of Agencies.

Q. How long have you been in that position?

A. Three years.

Q. What district do you cover?

A. The State of Kansas and Northern Missouri.

Q. And how many towns?

A. I have fifty-three cities.

Q. Fifty-three?

A. Yes, sir.

Q. Is there a Curtis agent in each city?

A. I have fifty-three cities, and in one city there are three agents, and consequently I have a total of fifty-five agents.

Q. You know all these agents?

A. Yes, sir.

Q. Are you familiar with all these cities?

A. Yes, sir.

Q. Have you made an investigation of that and

made reports to the company with reference to the wholesale situation in your district?

A. I have.

Q. Those reports are contained on these so-called "pink" and "white" slips?

A. Yes, sir.

Q. In making this investigation did you find out in how many of the towns covered by you there is only one wholesaler?

A. Yes, sir; forty-four.

Q. How many of your agents wholesale only Curtis magazines?

A. Forty-eight.

Q. That is not counting newspapers?

A. Yes, sir.

Q. How many of your agents began the magazine business with the Curtis magazines?

A. The entire number fifty-five out of the fifty-five.

Q. In how many towns where the Curtis agent handles other magazines is that agent the only wholesaler?

A. In two towns.

Q. In how many of the towns where there is only one wholesaler is he the Curtis agent and handles only Curtis magazines?

A. In forty-two.

Q. How many of your agents do not handle newspapers at all?

A. How many of the district agents do not handle newspapers?

Q. Yes.

A. Forty-two of them do not handle newspapers.

Q. Have you excluded Crowell, "Pictorial" and the American News Company agents in making up those totals?

A. I have.

Q. So, including them, there would be more wholesalers throughout the district?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, does this report of yours cover the situation that was in your district in 1917—the winter of 1917?

A. It covers the situation as it was in February and March, 1917.

Q. And January?

A. The beginning of February, I believe, I made the investigation.

Q. You made the investigation in 1918. I am inquiring about 1917. Did that same situation prevail?

A. Not in all cases.

Q. Practically speaking, it did?

A. Yes, sir.

Q. Now, you say there are two towns in which there are wholesalers that handle your magazines and other magazines?

A. Yes, sir.

Q. What two towns are those?

A. Fredonia, Kansas, and Excelsior Springs, Missouri.

Q. So that the situation in those two towns in January, 1917, was the same?

A. Yes, sir.

Q. How long have you been in that district?

A. Since about February, 1917.

Q. Could you tell positively about January, 1917?

A. Yes, sir.

Q. You were familiar with conditions there about that time?

A. Yes, sir.

Q. Who was the agent in Fredonia?

A. A man by the name of L. L. Arnstead.

Q. What does he handle?

A. The Curtis and Hearst groups.

Q. And he handled them in 1917?

A. Yes, sir.

Q. And is your agent?

A. Yes, sir.

Q. And is the only agent in that town?

A. Yes, sir.

Q. And was the only one there then?

A. Yes, sir.

Q. And you put him under the new contract?

A. Yes, sir.

Q. When did you do that?

A. About March, 1918.

Q. Now, in Excelsior Springs, who is your agent there?

A. William List; he handles the Curtis group and the Hearst group, and newspapers.

Q. And he was your agent in 1916 and 1917?

A. Yes, sir.

Q. And he handled those same articles at that time?

A. He did.

Q. And you had him under contract?

A. Yes, sir.

Q. And you put him under the new contract?

A. Yes, sir.

Q. Are there any more towns like that in your territory?

A. There are not, to my knowledge.

Q. They are the only places of that description?

A. That is right.

Q. Do you do promotion work?

A. I do.

Q. How do you do that work?

A. In various ways—along two lines, first, with the retailer——

Q. Describe the work with the retailer.

A. I make it a point to call upon the retailers from

time to time in various cities and introduce myself and ask their co-operation in getting as large sales as possible.

Q. Do you think your work in that respect is of any value to your company?

A. I do.

Q. Why?

A. The fact it interests the dealer in our magazines and the fact we are interested enough to send a representative to call on him——

Q. He naturally tries to increase your circulation?

A. Yes, sir.

Q. That is what it is for?

A. Yes, sir.

Q. Have you changed agents?

A. Since when?

Q. Since you have been there.

A. In the territory, yes.

Q. On account of handling other magazines?

A. I think not.

MR. DALY: That is all.

MR. MILBURN: That is all.

CARL OTTO NEESE, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Neese, are you connected with the Curtis Publishing Company?

A. Yes, sir.

Q. What as?

A. District agent at Denver.

Q. How long have you been the District Agent?

A. Since the first of January, 1918.

Q. Who was the agent before you?

A. I believe Mr. Harold Sanborn.

Q. How do you distribute the magazines?

A. To the dealers by auto truck.

Q. Have you boys to whom you deliver papers?

A. I have about 275.

Q. And how do they get the papers?

A. At my place of business and sub-stations.

Q. How many sub-stations do you have?

A. Four at present.

Q. Do you deliver papers to the sub-stations and they go there and call for them?

A. Yes, sir.

Q. What do you handle other than magazines?

A. Nothing.

Q. Are you in any other business?

A. I am manufacturers' agent for two concerns manufacturing automobile accessories.

Q. Do you handle any newspapers at all?

A. None whatever.

Q. What do the boys sell to whom you deliver?

A. They sell our publications; I know that for a fact.

Q. Do any of them sell newspapers?

A. Why, they do not sell newspapers. I never caught any of them at it.

Q. Any of them handle any other magazines?

A. A few.

Q. About how many?

A. I really do not know for sure how many do handle the other magazines, but there is probably a hundred who do.

Q. Have you done any work with them in conjunction with the Curtis Publishing Company?

A. You mean in the line of coaching them?

Q. Yes.

A. Yes, sir; I do quite a little in that line, in the way of talking to them and getting out bulletins on how to sell the magazines, etc.

Q. Who is the Curtis superintendent in your district?

A. Mr. Adamson.

Q. Has he worked with you during the time you have been agent?

A. Yes, sir.

Q. In your time there have these boys received any bonuses for increased sales, or premiums?

A. Yes, sir; they got different prizes, and one just got through with a contest whereby they got some different prizes, and they got bonuses of different kinds.

Q. Did you also?

A. Yes, sir.

Q. Have you any members of the Curtis League among your boys?

A. I have. I think now that I have about—I should have close to fifteen now. I think I got ten the last time. I am not sure. I have not got the report on that yet.

Q. How about Master Salesmen?

A. I think I have four or five.

Q. Were they promoted to that rank before you assumed the agency?

A. I had one promoted May 1.

Q. And the other four came to you?

A. Yes, sir; either three or four came to me.

Q. Are you under the new contract?

A. Yes, sir.

Q. How many boys were turned over to you when you took the agency?

A. The exact number I could not say, but somewhere between 200 and 225.

Q. How were these boys turned over to you when you took the agency—Do some of them now buy magazines from the older agent?

A. Yes, sir; some do, but I could not say there were as many buying as before, but some are still buying.

Q. That number is diminishing?

A. Yes, sir; I think so, every day.

MR. DALY: What kind of magazines?

By MR. MILBURN:

Q. Other magazines than the Curtis—Am I correct in that?

A. Yes, sir; there is no particular one I could mention.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Are you trying to prevent your boys from buying magazines from Sanborn?

A. I am not.

Q. You are willing to have your boys go to Sanborn and buy other magazines?

A. It is immaterial to me where they go, once outside of the building.

Q. You are willing to have them buy "Collier's"?

A. I have no jurisdiction over them.

Q. It is the end of it when they get the magazines from you?

A. No, sir; not the end. I talk to their parents, etc.

Q. So far as selling other magazines is concerned?

A. Now, let me see—Just what did he say?

(The stenographer repeated the last few questions and answers.)

Q. You have no jurisdiction over them?

A. How could I? This is a free country.

Q. That is what I thought. Now, what training did you have in selling magazines before you took this agency?

A. I did not have any.

Q. You had never sold any?

A. I never sold any in my life.

Q. Your instructions to the boys about selling magazines are what you have learned since taking the agency?

A. Yes; and I have learned a whole lot.

Q. It is not very hard to learn, is it?

A. Not if you have boys of your own.

Q. You could easily get boys, could you not?

A. You could easily get boys, but there are different kinds of boys.

Q. You can get good boys to sell magazines?

A. I have the best in town.

Q. And you have no trouble in getting in that kind of boys?

A. No, sir; not if you keep them interested and keep their parents interested.

Q. How many of these retailers do you cover?

A. I go 147 miles every Wednesday night.

Q. It is quite a job—How many retailers are there?

A. Two hundred fifty-four.

Q. You see them all?

A. Whenever I get time.

Q. You make it your business to see them?

A. I see about fifty out of the two hundred and fifty I have got, and the rest do not know me.

Q. When you took on this agency did you take it solely on commissions, or did you have guaranties?

A. No guaranty whatever.

Q. You took it in the usual way. What was that way?

A. I done the same as the rest. I put up my bond and took over the agency.

Q. Did they or did they not give you $45 a month for your services to the Curtis Publishing Company?

A. Not as a regular thing.

Q. How many times did they do that?

A. $45 a month.

Q. Or any other sum?

A. I have gotten a few bonuses.

Q. I am not speaking about bonuses; I am speaking about money that you have received.

A. As a salary?

Q. Yes.

A. I received none as a salary.

Q. What were those bonuses you got?

A. They were given to me because of several reasons; one was I did not know the agency and my overhead is twice what it should have been, and another reason is the papers came in fifteen and twenty days late. There were two months we did not get them on time at all.

Q. You got this money to protect you?

A. Yes, sir; absolutely.

Q. Are you still getting that?

A. No, sir.

Q. How many times did you get that?

A. I got it about—I think I got it every week for about three months.

Q. That was to protect you in building up this business?

A. Until I got on to how to work it.

Q. Do you pay rent for the four sub-stations?

A. I do not know what you mean by rent.

Q. Keeping up these sub-stations.

A. Do I pay it?

Q. Yes.

A. No.

Q. Who pays it?

A. They work on commission. They were all places full of business established before they were made sub-stations.

Q. Who established them?

A. The people who run them; one is a dry goods store and another a shoe shop.

Q. They handle them on commissions?

A. Yes, sir; absolutely.

Q. What commissions do they get?

A. Do you want me to answer that question?

A. I do.

A. They get half a cent a copy for the "Post."

Q. Who gets the other half cent?

A. Which other half?

Q. You get a cent a copy for handling them?

A. No, sir.

Q. What do you get?

A. "The Saturday Evening Post"?

Q. Yes.

A. Half a cent on some of them and a cent on others.

Q. What others do you get a cent on?

A. On the dealers.

Q. Now, these that you get a half cent on—are they any you get a half cent on?

A. I get a half a cent on all of them and a cent on part of them.

Q. What part do you get a cent on?

A. On the dealers' part.

Q. On the sub-dealers they get half a cent?

A. Yes, sir.

Q. Who gets the other half cent? Do you not get anything at all?

A. I get half a cent, the same as if I sold them myself.

Q. It costs a cent a copy to get them out?

A. To the sub-stations; yes, sir.

Q. And to the boys?

A. Not all the boys. What I sell at my office I really make a cent on.

Q. Who is served from these sub-stations?

A. Several of our boys.

Q. Any retailers?

A. No; there is not. There is one station out here that does take the papers over to two dealers for me, but I do our own collecting.

Q. How much do you pay for the "Post"?

A. Two and a half cents.

Q. How much does the boy pay?

A. Three.

Q. Where does this other half cent come in that you have talked about through the sub-dealer? You say the sub-dealer gets a half a cent and you get a half a cent and the boy pays the same price and you pay two and a half cents?

A. Yes, sir; and I turn around and send a report of every boy that serves at the station and I get a card back that says that my account is credited with half a cent for every copy sold at the station.

Q. How many copies are sold through the sub-stations?

A. At present there are about fifteen or sixteen hundred copies.

Q. Of the "Post"?

A. Yes, sir.

Q. How many "Journals"?

A. The "Journals" run about half what the "Posts" do—a little bit more, probably.

Q. Now, is that where this $45 comes in, or did you get that besides this?

A. I got that $45 to help me establish my agency to offset the loss.

Q. And you got this in addition?

A. Yes, sir.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. You had a paper that could not be delivered because of its being snowbound?

A. I would get part of the "Posts" and deliver them and make an extra delivery of the "Gents;" probably they would be delivered together if they came in together; and then the "Journals" would come along probably later.

Q. Mr. Adamson helped you coach the boys?

A. He came here and coached me and the boys both.

Q. You can learn a whole lot about selling magazines from a master salesman?

A. We have pretty good ones here—one especially.

By MR. DALY:

Q. When you were snowbound how many boys left you?

A. Oh, they stuck pretty well. At one time I had fifteen parents lined up getting magazines for their boys.

Q. They were on the job that time?

A. They surely were.

MR. MILBURN: Those are all of our witnesses here. We understand if Mr. Young or anybody else is put on by the Commission at this time, we make no technical objection to that, but we are to be afforded, if we have no time here, an oppor-

tunity either at the Chicago or New York hearing, or at a subsequent hearing, to cross-examine.

MR. DALY: The only witness we are going to put on here is Mr. Young, and we are going to call his attention to four things in the record and ask him about those things, and there will not be any necessity for any extended cross-examination, and we have plenty of time to get through. As to the other witness, we can not put him on today because we have not the time.

W. R. YOUNG, called as a witness in rebuttal (out of order, by consent) by the Commission, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Treloar, of Boise, Idaho, testified that you called upon him and asked that he take on the "Pictorial Review." Will you explain how Mr. Tillitson, your agent, was appointed, and why?

A. In the first place there the Rolls-Case Company were our agents; this matter was closed by correspondence with our New York office. This gentleman continued as our agent for possibly four issues and he was not remitting regularly and so Mr. MacKinnon wired me that he was shipping no further copies there and he was sending a statement for collection, and I was to handle the matter entirely out of San Francisco. I immediately wired Mr. A. E. Tillitson, of Boise, who is now our agent, and asked if he would accept the agency for "Pictorial." He replied by wire stating that if the "Pictorial Review" was fully returnable, he would accept the agency. I wired I was shipping so many copies, and he has been our agent ever since.

Q. You heard Mr. Treloar's testimony that you called on him?

A. To the best of my knowledge I certainly never saw the gentleman before I saw him on the witness stand.

Q. Mr. Beresford, of Boulder, Colorado, testified a gentleman called on him and asked him to take on the "Pictorial Review"; did you ever call on Mr. Beresford?

A. I have never been in that city.

Q. Has the "Pictorial Review" an agency in Boulder?

A. No, sir; that is supplied from Denver by Mr. Sanborn.

Q. Mr. Greene testified that Mr. Richards, of Sacramento, told him that you had told him that agents in California and the Southwest were taking on the "Pictorial Review" with the permission of the Curtis Publishing Company. How was Richards appointed?

A. Mr. Richards—that matter was closed entirely by correspondence from New York. Mr. Egbert, our agent in San Francisco, and I went up there to Sacramento in an automobile and I broached the matter to this gentleman and he said, "I have just closed the matter, by correspondence."

Q. You did not tell him that other agents were handling the "Pictorial Review" with the permission of the Curtis Publishing Company?

A. Not to my knowledge.

Q. Mr. Greene, of the Curtis Publishing Company testified that you told Mr. Scantleberg, of Stockton, that all the Curtis agents in Colorado and the Southwest were going to handle the "Pictorial Review" and had received permission from the Curtis Publishing Company. Did you tell Mr. Scantleberg that?

A. These conversations were all alleged to have been held a year ago, and it is hard to remember the details, but to the best of my knowledge and belief I never made an assertion of that kind.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Young, have you been connected with the "Pictorial Review" during the last year?

A. Yes, sir; possibly the last five years.

Q. You have been connected with it actively since it left the American News Company?

A. Yes, sir.

Q. And since that time it has established a great many agencies throughout the country?

A. Yes, sir.

MR. DALY: I think this cross-examination should be confined to the direct examination in this case. If you want to make him your witness and call him to testify as to these other matters, that is something else.

MR. MILBURN: This is on a question the connection of which you will see in a moment.

By MR. MILBURN:

Q. You placed a great many agencies, have you not?

A. Yes, sir.

Q. And have had to go to different points and interview different prospects?

A. Surely.

Q. And possibilities?

A. Yes, sir.

Q. And your time has been spent in doing that?

A. Surely.

Q. In that time you had to interview sometimes

several different people in one town, have you not, before you have gotten an available man?

A. I would not say several. I would see sometimes possibly two or three.

Q. You did not find much difficulty in getting a man?

A. Some places I have.

Q. You have had to interview a great many people in getting these agencies?

A. Yes, sir; in the West a great many.

Q. How many times have you seen Mr. Treloar?

A. I just testified that to the best of my knowledge and belief I never saw the man before he was a witness here.

Q. Whom did you see and interview in Boise?

A. When I called in Boise I always call on the wholesalers and also on the principal newsdealers.

Q. Did you go to Boise before you had a wholesaler there?

A. I just testified this matter was entirely closed by correspondence from New York.

Q. You had never been in Boise at all?

A. Yes, sir; I would say I had been there a dozen times.

Q. And that was on magazine business?

A. Yes, sir.

Q. And you mean to say all of the times you have been in Boise you never heard of Treloar?

A. I had no occasion to call on Treloar; our proposition was handled by the American News Company, and I would break my jumps between the news companies' branches calling on the large dealers, because I wanted to do some promotion work as I went along.

Q. And in that connection, did you become acquainted with Tillitson and recommend him to your principal?

A. No, sir; the Rolls-Case Company did.

Q. They were your agents?

A. Yes, sir.

Q. There is no question about your being doubtful about this, whether you had any conversation with Treloar?

A. There is not a shadow of doubt in my mind.

Q. How many other men did you have working for the "Pictorial" on the road, engaged in this same business?

A. Local promotion men in different localities.

Q. Men calling in different towns in reference to promotion work?

A. Yes, sir.

Q. You remember Mr. Beresford testified, and when Mr. Daly asked him if you were the man that called on him he said no?

A. Mr. Treloar made that statement. My name was not mentioned by the gentleman from Boulder.

Q. Mr. Treloar did not attempt to say that he had talked with you?

A. He admitted I was not the Mr. Young.

Q. Whether he had talked with any other representatives of the "Pictorial Review," of course you could not tell of your own knowledge?

A. Yes, I can; because these instances where we had local promotion men were confined—One was in the city of Tacoma, Washington; I had a local man who covered in and around San Francisco Bay territory, and another young chap in San Jose, California; and those were the only ones.

Q. You had only two men helping you establish these agencies?

A. This proposition I practically handled myself. These men were doing nothing but local promotion work.

Q. I am talking now about putting in your agencies since the time the "Pictorial" went independent.

A. Yes.

Q. How many men have you had in this Western territory?

A. Just myself.

Q. You have done the whole work?

A. Yes, sir.

Q. Nobody else has helped you—nobody else would represent the "Pictorial" in any locality?

A. No one other than myself.

Q. There is testimony here about the Egbert Bros.

A. They are our San Francisco wholesalers, and they distribute publications in San Francisco, Oakland and Los Angeles.

Q. Who is Mr. Rankin?

A. He is our representative who, I think, makes his headquarters in St. Louis at the present time.

Q. What is Mr. Rankin's territory?

A. I do not know. Mr. MacKinnon can tell you that.

Q. What is your territory?

A. Everything west of Denver, El Paso—Denver, Montana and around the Coast.

Q. So if anybody went in to a wholesaler and had a conversation with reference to "Pictorial," or tried to get them, other than yourself, they would be an imposter on the "Pictorial" people?

A. Except where the wholesaler—for instance, Mr. Sanburn, of Denver, who handles some of the territory—they would call on their dealers in that territory where they supply them.

Q. I am talking about if any wholesaler had been approached by anybody representing the "Pictorial Review" other than yourself, that man was not representing the "Pictorial Review," but was an imposter?

A. I would certainly be notified if there was anybody but myself in that territory.

Q. Mr. Greene testified you had conversations with somebody representing the Curtis people. You have testified in answer to that. You have interviewed Curtis men endeavoring to have them take on the "Pictorial Review," have you not?

A. Naturally, when I drop into a town, I would go to the best man I thought would accept the agency.

Q. Do you remember the conversation to which Mr. Greene referred?

A. No, sir; I do not.

Q. Who was that?

A. He stated Richards, of Sacramento, and Scantleberg.

Q. Was it Mr. Greene or Mr. Young? Mr. Turner?

A. I do not know who said it.

Q. Your specific attention was directed to that fact, that he testified that you had told a wholesaler that agents in the Southwest and South California had taken on the "Pictorial Review," and by "agents" I mean Curtis agents.

A. I understand those remarks were made—that that testimony was given.

Q. With what specific agents were these conversations alleged to have been had?

A. The conversations were supposed to be had with Arnold Richards, of Sacramento, and also George Scantleburg, of Stockton.

Q. Do you know Richards?

A. Yes, sir.

Q. Did you have a conversation with him?

A. Yes, sir; I stated this matter was closed by correspondence between him and the New York office. The first time I saw him was when I motored to Sacramento with Charles Egbert, and, as I stated, just as I started in to talk to this man he came out of his place and stated that he had just closed the matter by correspondence with the New York office.

Q. Is that the only conversation you had with Richards?

A. No, sir; I have covered Sacramento possibly three or four times.

Q. Prior to that—before he had become the agent?

A. I would say I did call on him before.

Q. You must have picked him out and notified the home office he was a good prospect?

A. Yes, sir.

Q. And you had conversations with him.

A. Yes, sir.

Q. And you would naturally try to persuade him to take the proposition up.

A. Inasmuch as I thought him the best man, I approached him.

Q. You tried to persuade him to take it?

A. Yes, sir.

Q. What did you tell him about it? What was your first conversation?

A. I had nothing to tell him further than we would like him to handle our proposition there.

Q. That was the first time that you saw him that you told him that?

A. Yes, sir.

Q. You were aware that certain Curtis agents had taken over the "Pictorial Review"—you knew that certain Curtis agents had taken on the "Pictorial"?

A. This is the first time?

Q. I asked you, yes or no—did you know at that time whether certain Curtis agents had taken on the "Pictorial"?

A. Absolutely not.

MR. DALY: Now, make your explanation.

MR. MILBURN: Mr. Daly, you have a right to ask him that on re-direct-examination.

By Mr. Milburn:

Q. How many conversations did you have with Richards?

A. Well, as I just got through telling you, I called on him practically once before we broke with the news company. That was the conversation I just tried to explain about.

Mr. Daly: And you have a right to explain that conversation if you want to.

The Witness: The conversation was that I merely approached the gentleman—he was a prospect—and told him that in the near future we would sever our connection with the American News Company and I wanted to get in touch with the wholesalers handling that territory, and we wanted to know what he would say about it.

By Mr. Milburn:

Q. Did you not say anything about the prospective breaking away from the American News Company and about a number of other magazines doing the same thing?

A. As to that, I do not remember. I was interested in no other publication other than the "Pictorial Review."

Q. You told him of the advantages that would accrue to him by taking up your magazine?

A. I do not know anything about any other magazines breaking away.

Q. Did you not know of the independent movement?

A. I did not know of anything but the "Pictorial Review" breaking away at that time.

Q. Did you not know what composed the original breaking away——

A. I knew at first, but I had no authority to tell that man.

Q. You did not tell that man that by taking over the "Pictorial," he would get in with some other publications?

A. Possibly I may have said that.

Q. Did you?

A. The chances are I did.

MR. DALY: Now, what has that to do with the direct examination, Mr. Milburn? I would like to know that? He denies he said anything about it.

MR. MILBURN: Mr. Daly, if you object, object. I have a right to find out about these conversations.

MR. DALY: Well, I do object.

MR. MILBURN: I submit the objection should not be sustained. I have a right to go into all the conversations with Mr. Richards and what was involved, and what his—what the particulars were of these conversations, and what was said at any one of them.

MR. DALY: Very well, go ahead.

By MR. MILBURN:

Q. You, as I say, went over all the prospects that he would get by taking over your agency?

A. Well, I had no prospects to offer him except that of "Pictorial Review."

Q. You did not know who had gone independent?

A. Well, there was no other one at that time that I know of that had gone independent.

Q. What was the date of that?

A. A year ago last May was the first issue we put out independently.

Q. Was any mention at all made of the Curtis contract?

A. To the best of my knowledge and belief, no.

Q. You never mentioned it in that conversation—

to the best of your recollection you never mentioned the Curtis contract at all?

A. To the best of my recollection; no.

Q. When did you first see Scantleburg?

A. I suppose that was about three or four months before we broke with the news company.

Q. Was he closed by you or the home office?

A. Scantleburg?

Q. Yes.

A. He was not closed.

Q. He did not take the agency?

A. No, sir.

Q. How often did you see him?

A. Well, Mr. Scantleburg was in the retail business there and ran a little book and stationery store there, and I used to drop in every time I was in Stockton and see how our illustrious publication was selling on his newsstand.

Q. He was retailing it?

A. Yes, sir.

Q. Did you tell him he could get the wholesale agency for it?

A. Yes, sir.

Q. Did you endeavor to get him to act as agent?

A. Yes; I talked the matter over with him.

Q. When did you appoint your agent at Stockton?

A. Well, I do not just recall that date. I do not just recall it.

Q. Was it long after that?

A. Well, the first time, as I say, remember having any conversation was at the time we were contemplating breaking away.

Q. I ask when did you appoint a "Pictorial" agent in Stockton?

A. Well——

Q. When did you appoint Wilson?

A. Just before we broke I put Wilson in as agent.

Q. Was that after you had your first talk with Scantleburg?

A. Well, I do not recall that. I talked with Scantleburg possibly two or three months before we broke.

Q. Before you got Wilson, you continued your efforts to get Scantleburg as your wholesaler?

A. There was some correspondence; I do not recall what it is. I think I have it on file in the San Francisco office, in which he stated it would be impossible for him to handle the "Pictorial Review."

Q. When you asked him to handle it, what did you say?

A. Well, as near as I can remember the conversation, he said he was afraid it would conflict with the Curtis contract, and he did not think it would be possible.

Q. What did you say in reply to that?

A. There was not much to say. If he turned it down, it was up to me to put somebody else in there.

Q. You did not stand still in front of him?

A. No, sir; I did not think there was much use in monkeying around, and I left.

Q. You did not reply?

A. I might have said, "Good-bye."

Q. After the moment you heard he was safely in the Curtis folds, you left?

A. I did.

Q. You never made any efforts to persuade any Curtis agent to take your publication over, did you?

A. Well, I do not believe that I would have to persuade some of them very hard.

MR. MILBURN: Now, I move to strike that out.

EXAMINER MOORE: Strike it out.

By Mr. Milburn:

Q. Now, answer my question, yes or no?

A. I will look at my list here and see if I have any recollection of having tried to persuade them. No, I do not believe I did have to.

Mr. Daly: That is entirely out of the cross-examination, I submit.

Mr. Milburn: He testified he never made any efforts to get the Curtis agents——

Mr. Daly: Only what you brought out.

By Mr. Milburn:

Q. You had no other conversation with Scantleburg about the Curtis contract except his bare assertion that it forbade his taking it—is that true?

Mr. Daly: Mr. Examiner, the witness has answered that question half a dozen times, and I object.

Examiner Moore: On what ground?

Mr. Daly: On the ground it has been answered four or five times, which, I submit, is a sufficient ground.

Examiner Moore: Very well, let him answer it once more and then he can stop.

By Mr. Milburn:

Q. That is all that was said about the Curtis contract with Scantleburg—he had a Curtis contract and could not take your paper, and nothing else was said?

A. To the best of my knowledge and belief, that was all.

Q. You never said a word to him about any other Curtis agent taking on the "Pictorial Review"?

Mr. Daly: I object.

Mr. Milburn: On what ground?

MR. DALY: This man has testified and has covered that matter, and he is now asking him over and over again——

MR. MILBURN: I take an exception to that. I asked him specifically if a certain remark was made by him.

MR. DALY: Yes, and he said no.

EXAMINER MOORE: Let him answer.

By MR. MILBURN:

Q. Did you, at any time, tell Scantleburg that other Curtis agents had taken the "Pictorial Review"?

A. I might have mentioned one instance; yes, sir.

Q. Be a little more certain about it—are you certain?

A. I am not certain.

Q. That is your best recollection?

A. To the best of my recollection.

Q. Your recollection about these conversations is not very clear?

A. It is clear.

Q. It does not reach the line of certainty?

A. Why not?

Q. Because you stated to the best of your recollection you mentioned an instance, but you are not certain —is that the fact?

A. I might have mentioned a half a dozen instances. I say to the best of my recollection there was none mentioned.

MR. MILBURN: That is all.

RE-DIRECT-EXAMINATION.

By MR. DALY:

Q. You mean you did not say it?

A. No.

MR. MILBURN: I object to that, and move that it be stricken from the records.

EXAMINER MOORE: Why?

MR. MILBURN: Because he has made a definite answer to a question asked by me, and Mr. Daly characterizes his answer in the form of an interrogatory and gets a reply to it. He did not say that. He said he was not certain how many conversations he had. That stands on the record, and that cannot be conceivably construed into "no" to any question.

EXAMINER MOORE: Can you not ask the question over and bring out the same thing?

MR. DALY: No.

EXAMINER MOORE: Motion sustained.

By MR. DALY:

Q. Now, Mr. Milburn talked about imposters. As a matter of fact, there have been imposters in your territory?

A. It would seem so from certain conversations I have heard along the line.

Q. Tell about that.

A. About the time this affair came up in Sacramento, California——

Q. What affair?

A. This affair of Richards giving up the "Pictorial Review" agency.

Q. Yes.

A. I received a letter from Mr. MacKinnon in which he stated that Mr. Richards had written him, stating he was giving up the agency of the "Pictorial Review" and was turning it over to James Gray, in the same city, and Mr. MacKinnon suggested, as I passed by Sacramento to drop in and see what was the matter. I met Mr. Richards on the street and I said,

"Hello," and talked with him a while and said I was sorry to lose him, that he was a very good agent, and we talked back and forth and Richards told me that two or three of his Curtis boys—boys in his Curtis organization—or whatever they call them, had received telegrams from some person in San Francisco asking these boys to meet him at the Travelers Hotel, and, as near as I can recollect, two of these boys replied; that is, they met this gentleman, whoever he was, at the Travelers Hotel, and Mr. Richards told me that this gentleman intimated that he represented the "Pictorial Review," and that this gentleman offered these boys one dollar each if they would go to Mr. Arnold Richards and draw a "Pictorial Review" for sale on the street or for sale through the boys, and these boys, he told me, had replied they could not get "Pictorial Review" or any other publication from Richards, inasmuch as he only supplied the boys with Curtis publications; and Mr. Richards further told me that it was his belief that this gentleman was employed in the San Francisco office of the Curtis Publishing Company.

MR. DALY: That is all.

RE-CROSS-EXAMINATION.

By MR. MILBURN:

Q. Did he state the grounds of his belief?

A. Well, he told me he had inquired around, and he was convinced he was from the San Francisco office. As a matter of fact, I did know the gentleman's name, but I have forgotten it.

Q. Will you find out the gentleman's name?

A. Yes, sir.

Q. And will you communicate it to the Commission?

A. Yes, sir; I will do that.

Q. And learn any other facts that will connect him with the Curtis Publishing Company. We would like to know him. I do not know whether you were asked, but what is your position with the "Pictorial Review"?

A. I am the Western representative.

Q. You are located in San Francisco?

A. Yes, sir.

Q. Are you the head of the San Francisco branch?

A. No, sir; I have a branch house there as a distributing house for the patterns; and I make my headquarters there.

Q. Is that pattern business run from your office?

A. No, sir; I just represent the publication.

Q. You are the general Western representative?

A. Yes, sir.

Q. And familiar, as anyone is, who is connected with them in that capacity?

A. Yes, sir.

MR. MILBURN: That is all.

MR. DALY: That is all.

F. M. BAY, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you connected with the Curtis Publishing Company?

A. I am.

Q. Where are you located?

A. I am the district agent at Portland, Oregon.

Q. Do you know Mr. Young, who has just been on the stand?

A. I do.

Q. Did he offer you the district agency for Portland?

A. He did.

Q. Did you have a conversation with him about that?

A. Yes, sir.

Q. Did he know you were the Curtis agent at that time?

A. He did.

Q. Did he say anything to you about other Curtis agents taking on the "Pictorial"?

A. He did.

Q. With the Curtis Publishing Company's consent?

A. With the Curtis Publishing Company's consent.

Q. As an inducement, did he make any special offer to you to take on the Pictorial?

A. After I had told him I could not see how any other Curtis agent had received permission, as I had already received a reply from Mr. Douglas to the effect I could not handle the "Pictorial," he then offered me what he thought would offset my Curtis agency—copies to the extent of about fifteen thousand "Pictorial Reviews," which, to my recollection, took into consideration everything except the cities of Seattle, Tacoma and Spokane.

Q. What other agents did he mention?

A. He specifically mentioned Mr. Woodmansy at Spokane.

Q. Did he mention others as well?

A. No other names at all.

Q. But he mentioned other agents as agents?

A. Yes.

CROSS-EXAMINATION.

By MR. DALY:

Q. Name the other men he mentioned.

A. He did not mention any others.

Q. There was only one?

A. He said others, but knowing that I was a Curtis agent and that I had met Mr. Woodmansy, he mentioned Mr. Woodmansy.

Q. Then he said Woodmansy and others?

A. Yes, sir.

Q. As a matter of fact, Mr. Woodmansy was handling "Pictorial Review" at that time?

A. Yes, sir.

Q. So, then, he told you what was a fact as far as Woodmansy was concerned, did he not?

A. Well, the inference was that he had the sanction of the Curtis Publishing Company.

Q. Not the inference—it is what he said that I want. Did he say he had— He never said that at all, did he?

A. Well— No; he did not say he had the sanction.

Q. And Woodmansy was handling the "Pictorial Review"?

A. Yes, sir.

Q. Now, as a matter of fact, you do not own this agency, do you?

A. I most certainly do.

Q. Who is Mr. Hopwood?

A. Circulation manager of "The Oregonian."

Q. Did he have any connection with your organization in 1917?

A. Not with my Curtis agency.

Q. Well, with your magazine business?

A. At what date was that?

Q. February 21, 1917.

A. I cannot answer that intelligently unless I knew

positively the date of the contract with the "Literary Digest."

Q. Will you look at this letter to Mr. MacKinnon from Hopwood (handing paper to witness)?

MR. MILBURN: I understand on this line of questions, Mr. Bay becomes Mr. Daly's witness. This is not cross-examination.

MR. DALY: It is cross-examination.

MR. MILBURN: If it is by way of cross-examination, I object to it. If he makes him his own witness, I do not object.

MR. DALY: This is absolutely within the cross-examination—as to what this man did about the "Pictorial Review."

MR. MILBURN: I do not object to that. I object to any matter that is not direct cross-examination, but I withdraw my objection if he be made your witness.

MR. DALY: I will not make him my witness.

EXAMINER MOORE: I do not understand the objection.

MR. DALY: Nobody else does.

MR. MILBURN: I think I can clear it up. I made certain inquiries of Mr. Bay as to what happened with Mr. Young, and I confined my examination precisely to that. Mr. Daly is now taking up with Mr. Bay the question of his Curtis agency, where he got it and who may be interested with him in it, and general questions as to his business, which have nothing to do with any conversation had with Young. It makes no difference what Bay was or what business he was in, so far as it concerns this conversation with Young. He was asked specifically about this conversation, and any testimony given by him other than that relating to that conversation I maintain makes him a witness

for the Commission. Otherwise my objection is in good standing.

MR. DALY: I have a right to show all about the conversation Mr. Young had with this gentleman, and to show by correspondence which took place at that time that such a conversation could not have happened.

MR. MILBURN: I do not object to that.

EXAMINER MOORE: Proceed, and see how far you can go.

MR. DALY: Please read me the direct examination of this witness, Mr. Stenographer, as so much has intervened that I have forgotten it.

(The stenographer repeated the direct examination.)

By MR. DALY:

Q. As a matter of fact, did your concern ever try to get the agency for the "Pictorial Review"?

A. There is no concern, except myself.

Q. Did you?

A. Not to my recollection.

Q. Then Mr. Hopwood has no connection, and never did have, with your organization?

A. The question was asked me, and I stated I would have to know the date of the signing of the contract with the "Literary Digest" before I could answer that question intelligently.

Q. When did Mr. Hopwood become connected with your organization?

A. He is not connected with my organization—Mr. Hopwood.

Q. When did he quit?

A. He never was connected with it.

Q. And has never had anything to do with it in any manner, shape or form?

A. No, sir; not with my organization.

Q. Did you testify to anything about not receiving permission from the Curtis Publishing Company?

A. I wired to Mr. Douglas asking for permission.

Q. Why did you do that?

A. Because Mr. Hopwood was writing to Mr. MacKinnon, asking for permission to handle the "Pictorial Review." If he had received that, a partnership was contemplated.

Q. You and Hopwood were working together, endeavoring to form a partnership?

A. Sir?

Q. You and Hopwood were working together, trying to form a partnership?

A. If we got the "Pictorial Review."

Q. Hopwood was trying to get it for you; for both of you?

A. He is the only one, to the best of my recollection, that dealt with Mr. MacKinnon.

Q. You were about to start this partnership and you were trying to get the "Pictorial Review"—is not that correct?

MR. MILBURN: You did not try to get the "Pictorial Review"?

THE WITNESS: No, sir.

By MR. DALY:

Q. You and Hopwood were working together about to form this partnership?

A. If Mr. Hopwood could get enough magazines to offset what I was making, and I had the permission of the Curtis Publishing Company to form a partnership with Mr. Hopwood, we would have formed a partnership.

Q. On the strength of that you wired to the Curtis Publishing Company, asking permission to handle the "Pictorial Review"?

A. I wired to the Curtis Publishing Company, asking them among others, for permission to handle "Literary Digest," "Pictorial Review," and I specifically stated "Popular Mechanics."

MR. DALY: I think anything that Hopwood did about getting this "Pictorial Review" is perfectly admissible, and I show you this letter (handing paper to witness.)

MR. MILBURN: I object to it as immaterial, irrelevant and incompetent.

By MR. DALY:

Q. Is that Hopwood's letter to Mr. McKinnon?

A. That is his signature.

EXAMINER MOORE: What is that letter?

MR. DALY: It is a letter to Mr. McKinnon from Mr. Hopwood, trying to get the "Pictorial Review." These men were operating together at the time.

MR. WELCH: He said they were not.

MR. DALY: He said they were trying to get these papers.

MR. WELCH: He said if he got the "Pictorial Review" they were to form a partnership. That is not operating together, I submit.

MR. DALY: That is your view of it. He said they were going to organize this partnership and he wired in on this "Pictorial" matter, and he wrote about it.

MR. MILBURN: If I intend to form a partnership with J. P. Morgan, can I sign their name to checks? Because I intend to if I can.

EXAMINER MOORE: Objection overruled.

MR. MILBURN: Exception.

MR. DALY: I offer this letter in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenog

rapher, "Commission's Exhibit, No. 207," and the same is as follows:)

COMMISSION'S EXHIBIT, No. 207.

"THE OREGONIAN.

Established 1850. H. L. Pittock, Manager.
Daily Sunday Weekly

Portland, Oregon.
Feb. 21, 1917.

Mr. B. A. McKinnon,
Circulation Director of
the Pictorial Review,
New York City, New York.
Dear Mr. McKinnon:

I expected a letter e'er this in answer to my letter relative to representing Pictorial Review for Oregon, but I presume on account of the bad storms in the Middle West that the mail has been held up, and undoubtedly will hear from you in a few days.

There is a rumor here that you have turned your agency over to Bloom and Gabrielson. Cannot believe that you would take this action, and naturally hope, for your interests as well as my own, that the rumor is not true.

The partnership of Bloom and Gabrielson is practically nil. Bloom is traveling in Montana and has not been in Portland for months, and Gabrielson is carrying a route on the Oregonian. They have a man hired to run their business, which is conducted by having desk room in another office. The only delivery they have is with horse and wagon and they do not attempt to cover anything but the downtown.

We have at our disposal all of the automobile trucks we desire for hauling up our bundles, and

we have two good light delivery machines, so that we can cover the entire city, as we are now doing for Curtis and Hearst. There is no one in Portland equipped as we are to handle Pictorial, and we hope that you will feel satisfied after conferring with Mr. Bresnahan of our ability to handle your agency here.

The reason I mention Mr. Bresnahan is because his Mr. Smith just spent two days here and was perfectly satisfied with our ability to handle Literary Digest and Pictorial.

We can start at any time and on short notice, and hoping to hear favorably from you, I beg to remain,

Very truly,

EPH:R (Signed) E. P. HOPWOOD."

MR. DALY: That is all.

RE-DIRECT-EXAMINATION.

By MR. MILBURN:

Q. During this conversation, did Mr. Young make this remark to you: "All the other magazines are going the way we go"?

A. I asked him specifically, and he said the other magazines would follow in "Pictorial Review's" footsteps

MR. DALY: We agree to that.

MR. MILBURN: That is all.

EXAMINER MOORE: Very well. We will take an adjournment until Tuesday, May 21, 1918, at 10:30 o'clock A. M., at Chicago, Illinois.

(Whereupon, at 5 o'clock P. M., an adjournment was taken until Tuesday, May 21, 1918, at 10:30 o'clock A. M., at Chicago, Illinois.)

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission,
v.
Curtis Publishing Company.
} Docket No. 15.

Federal Building, Chicago, Illinois.
Tuesday, May 21, 1918, 10.50 o'clock A. M.

The above-entitled matter came on for further hearing pursuant to adjournment taken at Denver.

Before: EXAMINER CHARLES S. MOORE.

Appearances: A. M. DALY, ESQ., and L. A. SPIESS, ESQ., on behalf of the Commission, and JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

F. L. COAD, called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Coad?

A. Galesburg, Illinois.

Q. What is the population of Galesburg, approximately?

A. About 25,000.

Q. Are you the Curtis district agent there?

A. Yes, sir.

Q. How long have you been the Curtis district agent there?

A. From February, 1915.

Q. What other business are you engaged in?

A. Books, stationery and typewriter business.

Q. Do you handle any other magazines except the Curtis publications?

A. Not wholesale.

Q. Do you handle any newspapers wholesale?

A. No, sir.

Q. How do you distribute the Curtis publications in your town—do you have auto delivery or boys?

A. I have boys to assist me, and I do part of it myself, with a boy.

Q. How do you deliver to the dealers?

A. By a boy, together with myself. I take the heavy bundles.

Q. How many boys have you got?

A. Boy agents?

Q. Boy distributors—Curtis boys?

A. I think I have twenty-three at present.

Q. What is the character of those boys—are they school boys?

A. Yes, sir; school boys, without any exception at present.

Q. A pretty good class of boys?

A. The best boys in the city—one of them is the mayor's son, and so forth.

Q. Do you know whether they handle any other magazines or newspapers?

A. Three or four of the boys sell newspapers only. Two of the boys have stands on the street. They sell newspapers with the Curtis magazines.

Q. In obtaining these boys and maintaining this staff of boys, has the Curtis Company and the Curtis traveling representatives aided you?

A. Yes, sir; in a very material way.

Q. Do you have meetings with the boys and keep a general supervision over them?

A. Yes, sir.

Q. How often do you have those meetings?

A. Not regularly; I make it a point to talk with the boys—some of them—every week, and we have occasionally meetings two or three times a year——

Q. You talk with them personally about every week?

A. Yes, sir.

Q. How many boys do you report?

A. The entire number.

Q. What other wholesalers are there at Galesburg?

A. Just one other.

Q. Wholesaler of magazines?

A. Yes, sir.

Q. What is his name?

A. B. H. Danforth.

Q. Do you know what magazines he wholesales?

A. He delivers to us, I presume, some of all of those he handles, and I think they are the "Pictorial Review," the Hearst publications—the "Cosmopolitan" and "Hearst's"—the "Literary Digest" and "Good Housekeeping."

Q. He is the big magazine wholesaler at Galesburg?

A. Yes, sir.

Q. How long has he been in business?

A. About two years, I believe.

Q. Does he also handle the Chicago newspapers?

A. Yes, sir; he is their agent.

Q. At wholesale?

A. Yes, sir.

Q. Did you ever handle any other magazines except the Curtis publications?

A. For a short time I handled "Collier's."

Q. How long did you handle "Collier's"?

A. I think about four or five months—something like that.

Q. Did you give it up?

A. Yes, sir.

Q. What was the reason?

A. I could not make a successful handling of it and make it pay.

MR. DALY: What is that answer?

THE WITNESS: I could not make a successful handling of it and make it pay.

By MR. WELCH:

Q. Did the Collier's Company give you any aid in pushing or circulating their magazine other than just to hand them to you for distribution?

A. No, sir.

Q. You did not get the same aid from "Collier's" as you got from the Curtis Publishing Company in the distribution and pushing of its magazines?

A. No, sir.

Q. Did you take up the matter at all with "Collier's"?

A. I had some correspondence in regard to the matter. I cannot recall the correspondence at present. I do not believe that that matter was discussed—the possibilities of making the same success with "Collier's" as with the Curtis Publishing Company's publications, by the same methods.

Q. "Collier's" did not do anything in the way of aiding you except to send you the magazines?

A. They furnished me with a few bags for the boys to——

Q. That is all they did?

A. Yes, sir.

Q. You never took on the Crowell publications or the "Pictorial Review" or "Literary Digest" or any of those magazines?

A. No.

Q. You were never asked to take them on?

A. Not that I recall; I think not.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. How do these boys get their magazines from you?

A. They come in and purchase them.

Q. Buy them outright and take them away and sell them?

A. You say outright—of course, they have the return privilege.

Q. If they have any over, they bring them back and you return them their money?

A. Yes, sir.

Q. Who handles "Collier's" in your city now?

A. It is handled by Mr. Danforth.

Q. And Mr. Danforth is a general wholesaler?

A. Yes, sir.

Q. The big wholesaler you described?

A. Yes, sir.

Q. Does he cover all the retailers?

A. Yes, sir.

Q. And there are about twenty-one of them?

A. Yes, sir—you said twenty-one. That was boys I was talking about.

Q. How many retailers are there?

A. I think fourteen. I do not know how many he sells to. He sells to a few more possibly than I distribute to, but that is about the number—fourteen in the town.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

S. A. CHRISTENSON, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Christenson?

A. Sioux Falls, South Dakota.

Q. What is the population of Sioux Falls?

A. About twenty-seven thousand.

Q. Are you the Curtis district agent at Sioux Falls?

A. I am.

Q. How long have you been the agent?

A. Since the fall of 1914.

Q. What magazines do you handle wholesale?

A. Only the Curtis publications.

Q. Have you ever handled any other magazines wholesale?

A. Not wholesale.

Q. What is your other business?

A. Books and stationery.

Q. Do you handle newspapers wholesale?

A. No, sir.

Q. How many retail dealers are there in Sioux Falls?

A. We are supplying fifteen retail dealers with the Curtis publications.

Q. And how do you make your deliveries to them?

A. Through our regular delivery system.

Q. Do you also employ boys?

A. We have boy distributors; yes, sir.

Q. How many boys do you have?

A. At the present time we have twenty-three.

Q. What kind of boys are these boys?

A. We have a very high class lot of boys. We se-

lect them carefully and the *esprit de corps* of the boys keeps up to the best.

Q. Are they all school boys?

A. Yes, sir; all school boys.

Q. And they are boys of the better class of people there?

A. I know all of their parents, practically.

Q. In obtaining these boys, do you see their parents before they take on the selling of the magazines?

A. I do not always see the parents, but we have the parents' consent in writing before we put them on, always.

Q. You make a point to do that?

A. Yes, sir.

Q. Is this force of boys a very permanent organization?

A. They are quite permanent. They change some, of course, to some extent, as they grow older.

Q. Have you co-operated in any way with the teachers in the schools, with respect to these boys?

A. We have, through two definite campaigns.

Q. What was the method of procedure?

A. Through one of the Curtis Publishing Company "Country Gentleman" campaigns we helped them to raise money for a stereopticon in the school, in which the boys turned in their profits on the sale of the papers to buy this school equipment.

Q. Has the traveling representative of the Curtis Publishing Company aided you in instructing the boys and keeping general supervision over them?

A. Very much; yes, sir.

Q. Do you have meetings with him?

A. We have a general meeting of the boys every time the traveling representative comes to the city, at which all of the boys attend.

Q. And you have other meetings yourself?

A. The other meetings are spasmodic, not at regular periods.

Q. Who is the other wholesaler of magazines at Sioux Falls?

A. The Cataract Book & Stationery Store.

Q. What does the Cataract Book & Stationery Store sell?

A. I could not tell you all. They wholesale at the present time, the Crowell publications, "Hearst's," "Collier's," and possibly some others—"Literary Digest."

Q. Have they been in business for a long time?

A. Yes, sir; they have been in business there for fifteen or sixteen years.

Q. They are the big wholesalers there in Sioux Falls, of magazines?

A. Yes, sir.

Q. Have you ever handled any other magazines wholesale except the Curtis publications?

A. No; I have not.

Q. Have you been asked to take on any for wholesale?

A. Yes, we have been asked to take on "Collier's" publications.

Q. Did you take on "Collier's"?

A. No, sir.

Q. Why not?

A. We had a contract with the Curtis Publishing Company under which we deal exclusively in the product in that way, and we do not care to be general wholesalers of magazines.

Q. You do not want to take on "Collier's"—is that the fact?

A. Yes, sir.

Q. Were you asked to take on other magazines wholesale?

A. I do not know as we were given a definite ten-

der, but we were asked if we were interested in the "Pictorial Review" publications, about two years ago.

Q. You did not take them on?

A. No, sir.

Q. Were you ever asked to handle "Hearst's" wholesale?

A. The Hearst people sent out a blank, as I remember, on which they asked if we were interested, and they sent that to other dealers also, and we were interested in that, but it was given to the other store for reasons, I do not know.

Q. Have these boys that you speak of earned any prizes or bonuses?

A. Yes; they have their regular bonuses, of course, which they get from their coupons, and besides that they have special prizes furnished mostly by the Curtis Publishing Company, but partly by ourselves.

Q. You have earned money above your commissions that you got from the sales of the Curtis publications, have you not?

A. Yes, sir; we have earned bonuses when the boys have exceeded certain sales.

Q. Can you give me approximately the amount that you have earned over and above the commissions?

A. During the period we have had this agency, we have earned somewhat over $300 net in bonuses, outside of our regular profits.

Q. That is a very material inducement to act as agent for the Curtis Publishing Company, is it not?

A. It is; we are after the money.

Q. Do these boys that you speak about handle any other newspapers or magazines that you know of?

A. A few of them carry the regular daily papers, and newspaper routes, but they are not sales boys.

Q. They do not obtain any of those from you, of course—that is an outside matter?

A. Yes, sir.

Q. You have nothing to do with that?

A. No, sir.

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What were these bonuses for?

A. These bonuses are really payments for extra efforts in promoting sales.

Q. All these are based on increase of circulation, are they not?

A. A boy reaches a certain definite sale, and for that boy you will be given a bonus, the supposition, of course, being that you have helped him increase his sales.

Q. You never got any bonuses unless your sales have been, to a certain extent, increased?

A. No, sir; it is a definite sales promotion.

Q. Now, you were under contract when the Hearst people wanted you to take on their magazines, were you not?

A. Yes, sir.

Q. And also under contract with the Curtis Publishing Company, when the "Collier's" Company came along and wanted you to take their magazine on?

A. Yes, sir.

Q. Did you ask permission, in either case, to take them on?

A. No, sir.

Q. You could have taken on the Hearst publications, could you not—you said you were interested in that?

A. We did not get to the point where we had a

definite offer. If we had gotten to that point, we would no doubt have taken them on.

Q. You could have handled them?

A. Opportunities, you mean?

Q. Yes.

A. Certainly, we could.

Q. And you could have handled the "Pictorial Review," also, could you not?

A. Certainly.

Q. Now, in making this new contract, your cash deposit was increased in proportion to the number of magazines you were handling?

A. About fifty per cent.

Q. And these boys come in and pay for their magazines, do they not?

A. They pay for them when they get them.

Q. Now, what do you mean by "fifty per cent." that you have spoken about there?

A. I cannot remember the figures, but I mean by fifty per cent., if our old deposit was $200, our new one was $300.

Q. That is the proportion your deposit has increased, as between the old contract and the new——

A. Not exactly; as I understand it, this increase of deposit under the new contract—we have the magazines given to us now on a charge basis, and before we paid for them in advance. It is now really the money we had previously on deposit that is now on permanent deposit, drawing interest.

Q. What part of the time of these boys is taken up by your magazines?

A. As to that, I cannot state definitely. Practically all delivered to regular customers. We let them have their papers Wednesday evenings after school—never until after four o'clock—under a pledge not to deliver till Thursday morning. They then go out and sell them. I do not know how much time it will take them.

Q. Does it take most of the remainder of the week to deliver them?

A. No; I think Thursday finishes them.

Q. In the other time they are not selling your magazines you still require them not to sell anything else—is that correct?

A. No, sir.

Q. How is it they do not handle any other magazines except in the few instances you described?

A. The boys are under no obligations to us except to sell what we are selling. We make no attempt to control what they do outside of that.

Q. If they were to come in and ask for any magazine that you might be handling, would you permit them to do so?

A. We exercise no jurisdiction over that matter at all.

Q. There is another wholesaler there, and you have described him. He is an efficient man, is he not?

A. Yes, sir.

Q. He took on "Hearst's"?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. These boys could not get any other magazines or newspapers from you because you do not handle any other magazines——

A. That is right.

Q. —and your attitude is you do not care what the boys do outside of their services to you and the Curtis Publishing Company?

A. That is right.

Q. Are there any other wholesale newspaper dealers in Sioux Falls?

A. Farley and Denton wholesale newspapers, but not magazines.

Q. They are the only other newspaper wholesalers there?

A. Yes, sir.

Q. Are there any of these other publishing houses —"Hearst's" "Collier's" or "Pictorial Review"— who have offered you any such aid as the Curtis Publishing Company has given you in the distribution and sale of their magazines?

A. They never did, because we never went into any proposition with them to such an extent.

Q. When you were talking the matter over, was any such aid or inducement given you or suggested?

MR. DALY: I do not understand that he said he talked it over with anybody.

MR. WELCH: He said they came to see him.

THE WITNESS: The "Collier's" representative called on us and talked over the matter.

By MR. WELCH:

Q. Did the "Collier's" agent offer you any aid such as the Curtis Publishing Company gives you in the handling of its magazines?

A. No, sir; he did not.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. These boys could go over and get magazines from this wholesale dealer that you talked about?

A. Certainly; possibly some might do it.

Q. You do not know whether they do or not?

A. No, sir.

Q. If you found them doing that, what would you do?

A. Nothing at all.

Q. Nothing at all?

A. Yes, sir.

Q. You think your contract permits that?

A. I have no jurisdiction over the boys. We want the boys to sell and urge them to sell; it is a business proposition to have them sell as much as possible.

Q. If they sold other magazines, would that help your business?

A. I do not think it would affect it.

Q. You do not think it would hurt it?

A. No, sir.

By Mr. Welch:

Q. What you mean is, if they sold other magazines occasionally obtained from some other source——

Mr. Daly: I object to his testifying. It is not what he means; it is what he said. Learned counsel has no right to talk about what he means. I ask that that be stricken out.

By Mr. Welch:

Q. You would object if the boy came to you and asked you to let him handle any magazine or newspaper that you might be handling, would you not, other than the Curtis publications?

A. I do not understand quite what you mean——

Q. Any magazine that you were handling in a retail or any other way.

A. No; I would not object to that.

Q. You would not?

A. No.

Q. You mean in a retail way or a wholesale way?

A. Well, in a wholesale way, necessarily he could not get Curtis publications as long as we had the contract.

Q. You do not handle any other magazines or newspapers so that situation could not arise with you?

A. No, sir; it could not arise.

Mr. Welch: That is all.

GEORGE SHUBERT, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Shubert?

A. Alpena, Michigan.

Q. What is the population of Alpena?

A. About 13,000.

Q. How old are you?

A. Thirteen years old.

Q. Are you the district agent for the Curtis Publishing Company in Alpena?

A. Yes, sir.

Q. How long have you been the district agent there?

A. September, 1916, when I went in.

Q. Prior to that, did you sell "Saturday Evening Posts" as a Curtis boy?

A. Yes, sir.

Q. For how many years?

A. About a year and a half.

Q. Do you go to school now?

A. Yes, sir.

Q. And you attend to this Curtis business outside of your schools hours—is that it?

A. Yes, sir.

Q. How do you make your deliveries of magazines?

A. You mean to the agents?

Q. To the dealers, and to the various people that buy them?

A. I deliver them to the adult agents, and the boys come to the house and get them.

Q. The boys come to the house and get them?

A. Yes, sir.

Q. And you take them to the retail dealers?

A. Yes, sir.

Q. Do you have boys working under you?

A. Yes, sir.

Q. How many boys have you got?

A. From seventeen to twenty-five; I do not know exactly how many.

Q. Do those boys have regular customers?

A. Almost all of them regular customers, and they sell outside of that, too.

Q. They have regular customers, and also sell outside?

A. Yes, sir.

Q. Do those boys sell any other magazines or newspapers that you know of except Curtis publications?

A. No, sir.

Q. Is there any other magazine wholesaler there?

A. No magazine wholesaler.

Q. The Curtis publications are the only magazines that are distributed wholesale in that town—is that a fact?

A. Yes, sir.

Q. Is there any other newspaper wholesaler—any newspaper wholesaler?

A. There are two; yes, sir.

Q. Who are they?

A. Brant and Woodson.

Q. Do you know what newspapers they handle?

A. The "Detroit Free Press" and the "Detroit News."

Q. Which ones handle those papers?

A. Brant handles the "Free Press" and Woodson the "News."

Q. How did you get these boys that you have now?

A. Well, Curtis sends out cards for free copies, and they make profits from them, and from the profits they make on those copies they buy others, and they send me some cards to give out, too, for free copies.

Q. Do the Curtis traveling men assist you in obtaining boys?

A. Yes, sir.

Q. Has the Curtis Publishing Company done any advertising for them?

A. In what way?

Q. Advertising in any papers?

A. Yes, sir.

Q. They have?

A. Yes, sir.

Q. Who are these boys—school boys, friends of yours?

A. All school boys.

Q. Do you work with them and teach them what you know about methods of selling?

A. Yes, sir; I deliver them myself, too.

Q. Do you have any meetings with these boys with the Curtis representatives?

A. I?

Q. Yes.

A. No; I have not had any.

Q. How many copies of the "Post" do you handle?

A. Well, I order about 225; sometimes 220 and sometimes 200.

Q. Have you received any bonuses or premiums?

A. I have; yes, sir.

Q. As district agent or as a "Post" boy?

A. Well, both.

Q. Both?

A. Yes, sir.

Q. What is your father's business?

A. He is a dentist.

Q. And this contract as district agent of the Curtis Publishing Company is in your father's name?

A. Yes; I am a minor.

CROSS-EXAMINATION.

By MR. DALY:

Q. You have somewhere around twenty-five boys?

A. Yes, sir; I do not know the exact number.

Q. And you teach them how to sell the Curtis magazines, do you not?

A. I help them; yes, sir.

Q. That is correct?

A. Yes, sir.

Q. Do you teach them how to sell any other magazines?

A. None of them retail any other magazines outside of that.

Q. And your instructions are confined to showing these boys how to sell your company's magazines—is that true?

A. Yes, sir.

Q. You do not teach them how to sell newspapers, do you?

A. No, sir; I do not.

Q. You teach them to be loyal to the Curtis Company?

A. I teach them, but they do not need the teaching.

Q. They do not need that?

A. No, sir.

MR. DALY: That is all.

ROBERT WELLS, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Milwaukee, Wisconsin.

Q. How old are you?

A. Sixteen.

Q. Are you the Curtis district agent there?

A. For one of the districts; yes, sir.

Q. For the uptown district of Milwaukee?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. When were you appointed district agent?

A. October, 1916.

Q. Is the contract in your name?

A. Yes, sir.

Q. You did not sign the contract?

A. No, sir; I did not sign it.

Q. You father signed it?

A. Yes, sir.

Q. What business is your father in?

A. He is connected with the Mitchell Auto Company.

Q. Were you a Curtis boy before you became district agent?

A. Yes, sir; about a year and a half.

Q. Did you win any prizes as a Curtis boy in selling "Posts"?

A. Only the regular voucher premium prize.

Q. Only the regular voucher premium prize?

A. Yes, sir.

Q. Have you won any prizes since becoming district agent or have you gotten any bonuses?

A. Yes, sir.

Q. How many dealers are there in your uptown section?

A. I have fifteen dealers.

Q. How do you deliver to those dealers?

A. Generally in an automobile.

Q. And how many boys do you have working for you?

A. Thirteen at present.

Q. Thirteen boys?

A. Yes, sir.

Q. What sort of boys are they?

A. Well, they are school boys of the best standing.

Q. Are you going to school now?

A. Yes, sir.

Q. These boys are friends of yours at school?

A. No, sir; they are not friends of mine at school.

Q. But they are all school boys?

A. Yes, sir.

Q. In obtaining these boys and keeping up this organization which you have, has the Curtis Publishing Company helped you in any way?

A. Through their traveling representative.

Q. He comes around pretty regularly, does he?

A. Yes, sir.

Q. Who is he?

A. Mr. Galang.

Q. To whom do these boys deliver?

A. Most of them have regular customers, and some sell on corners.

Q. Do you know whether they handle any other magazines?

A. I do not know anything about that.

Q. You do not know anything about that?

A. No, sir.

Q. Have you done any work at all with the Y. M. C. A., in Milwaukee, in connection with the boys?

A. No, sir; I have not.

Q. You have never handled any other magazines wholesale, have you?

A. No, sir.

Q. Or never sold any newspapers wholesale?

A. No, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. There is a district manager in your city for the Curtis Publishing Company?

A. No, sir.

Q. Is not the city divided up into a number of districts?

A. A number of districts; yes, sir.

Q. And you have charge of one district?

A. Yes, sir.

Q. Is there not one general manager over the whole district?

A. Not in the city; no, sir.

Q. Where is he?

A. We are controlled by Chicago.

Q. You are controlled by Chicago?

A. Yes, sir.

Q. And you teach these boys to sell Curtis magazines, do you?

A. Yes, sir; with the aid of the traveling representative.

Q. And they could get other magazines, could they not, there?

A. Yes, sir.

Q. There are general wholesalers there, or wholesale dealers of other magazines?

A. Yes, sir.

Q. Would they have any time to sell these other magazines?

A. I presume so.

Q. As a matter of fact, most of them do not?

A. No, sir.

Q. Do you teach them not to?

A. No, sir.

Q. Do you teach them how to sell other magazines other than the Curtis publications?

A. I teach them to sell Curtis magazines; of course they could apply that teaching to other magazines.

Q. Do you teach them how to sell newspapers?

A. No, sir.

Q. Nothing but Curtis, is that true?

A. Yes, sir.

Q. How much of their time would it take——

A. Just after school, about one or two afternoons a week.

Q. And they come in and buy their magazines, do they not?

A. Yes, sir.

Q. And pay for them?

A. When they get them; yes, sir.

Q. Now, in the event they do not quite sell the quantity they buy, they bring back what they have not sold and get their money from you?

A. Yes, sir.

Q. Is that your system?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. How many "Posts" do you handle through boys?

A. Through boys?

Q. Yes.

A. About 155 a week.

Q. How many "Ladies' Home Journals"?

A. I could not tell you exactly through the boys.

Q. Approximately?

A. Approximately about the same number—150.

Q. And "The Country Gentleman"?

A. About twenty-five "Country Gentleman" through the boys.

Q. How many do the dealers get?

A. About the same number—twenty-five.

Q. And of the "Posts"?

A. The dealers get 150.

Q. And of "The Ladies' Home Journal"?

A. About 150; it is about the same number—boys and dealers.

Q. About split even?

A. Yes, sir.

Q. How much of your time do you devote to selling magazines?

A. Thursday and Friday afternoons, after school.

Q. How long does it take you to deliver them?

A. About two hours to deliver them.

MR. DALY: That is all.

MR. WELCH: That is all.

THOMAS DEWEY, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Owosso, Michigan.

Q. How old are you?

A. Sixteen.

Q. Are you the Curtis district agent in Owosso?

A. I am.

Q. How long have you been the Curtis district agent?

A. Since June, 1914.

Q. And prior to that time did you handle "The Saturday Evening Post" as a Curtis boy?

A. For three years.

Q. For three years before that?

A. Yes, sir.

Q. And then you were made district agent?

A. Yes, sir.

Q. Do you wholesale any other magazine except the Curtis publications?

A. No, sir.

Q. Do you wholesale any papers?

A. None.

Q. How many retail dealers are there that you deliver to?

A. Ten.

Q. How do you make your deliveries?

A. I make eight of them myself Thursday morning and one of them comes after his "Posts" himself, and the other has a son who sells "The Saturday Evening Post" who takes them to his father.

Q. Did you say you were attending school now?

A. I did not say it, but I am.

Q. You are at school?

A. Yes, sir.

Q. And you deliver these magazines by hand, do you? You have no automobile or anything of that sort?

A. No, sir.

Q. And you also distribute and deliver through boys?

A. Yes, sir.

Q. How many boys have you?

A. I think it is ten.

Q. How do you obtain these boys and where from?

A. Usually we do not have to obtain them. They come to me and ask for "Saturday Evening Posts" and permission to sell them. Some came through advertisements by the Curtis people.

Q. Yes. And has the Curtis traveling representative aided you in any way in instructing these boys and in teaching them how to sell their magazines?

A. Yes, sir.

Q. Who is he?

A. Mr. Reynolds.

Q. Do these boys have regular customers?

A. All of them; some sell on the streets.

By Mr. Daly:

Q. Some sell on the streets?

A. Yes, sir.

By Mr. Welch:

Q. How many sell on the streets?

A. I think three of them, but they have all regular customers also.

Q. Three sell the "Posts" on the street?

A. Yes, sir.

Q. They are all school boys?

A. Yes, sir; all of them.

Q. Do you know the families of these boys?

A. All of them every one.

Q. Is there any other magazine wholesaler there?

A. Yes, sir.

Q. Who is that?

A. A lady by the name of Mrs. Halstead.

Q. What magazines does she sell?

A. The Crowell publications.

Q. Anything else?

A. She has the agency for the "Detroit News"; I do not think she handles anything else.

Q. She is a newspaper wholesaler—is that the fact?

A. Yes, sir.

Q. Were you asked to take on the Crowell publications?

A. Yes, sir.

Q. That is, to sell wholesale?

A. Yes, sir.

Q. When was that?

A. I think it was about two months ago. I do not remember exactly.

Q. What happened when you were asked—what was said and what did you say—when you were asked to take on the Crowell publications wholesale?

A. It was accidentally in the first place. The man happened to ask me who was the wholesaler in the city and I told him I was the only one and he asked me to take the agency for the Crowell publications.

Q. What did you say to that?

A. I told him I did not believe the Curtis people would let me, under my contract.

Q. And did he show you anything?

A. He showed me testimony which he claimed was taken—I think it was in Chicago—given by the Curtis district agent in which he claimed to have received permission from the Curtis people to handle the Crowell publications.

Q. Did he tell you that was the general attitude of the Curtis Company?

A. No, sir; he offered no explanation for this, but said it was the fact.

Q. You did not take on the Crowell publications also, did you?

A. No, sir.

Q. You do not handle anything else at the present time?

A. No, sir; nothing.

Q. How many "Posts" do you sell?

A. My last order was 210; I hope to sell all of them.

Q. How many "Ladies' Home Journal"?

A. One hundred and fifty.

Q. How many "Country Gentleman"?

A. My order is slightly above thirty, but I sell about thirty.

Q. When this representative of the Crowell Publishing Company came to see you, did he tell you of any other district agents that had taken on the Crowell publications?

A. He named several district agents from several cities who had given up the Curtis publications to handle the Crowell publications.

Q. Did he say anything further to you about those persons—not telling who they were or anything of that sort?

A. He named a couple more in confidence who had not given notice yet. He asked me not to tell anybody. That is all.

Q. Is this contract in your name or in your father's name?

A. In my father's name.

Q. In what business is your father engaged?

A. Editor of a newspaper.

Q. Do you know whether the new contract has been put into effect or not?

A. Yes; it has been with me.

Q. Are there any newspaper wholesalers in your town?

A. Yes; two more besides the one named.

Q. Who wholesale newspapers?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Was your bond increased under the new contract?

A. Yes, sir.

Q. Was that in proportion to the number of magazines you were handling?

A. I never stopped to figure it out.

Q. Did you not ask why it was increased?

A. I did.

Q. What did they say?

A. Because under the old contract we had to pay for our copies in advance and, therefore, we had to keep a good sum of money in the bank all the time, not drawing interest, and under the new contract we would be allowed to have a smaller amount of money at the Curtis Publishing Company than we had before in the bank and that drawing 5 per cent. interest.

Q. But under the new contract you had more money with the Curtis Publishing Company, did you not?

A. That is what I am speaking about. We had more bond, but that amount was less than we had to keep at the bank, and we get interest on the money now.

Q. You say the Crowell man told you of a number of agents who were handling his publications?

A. He did.

Q. Who was this Crowell man?

A. I do not remember his name.

Q. Can you give me the names of the men who were handling these publications?

A. I do not remember—I did not pay enough attention to that.

Q. He dropped in accidentally?

A. I happened to meet him in the store.

Q. And his first inquiry was what?

A. Who the magazine wholesaler was in that city?

Q. And you told him there was none there?

A. I told him I was the only one.

Q. That you were the only one?

A. Yes, sir.

Q. You could have handled his magazines, could you not?

A. I could have.

Q. Provided your contract would permit you to do it?

A. Yes, sir.

Q. And you could have handled them efficiently and sold his magazines?

A. I could not say how well I could have done it, but I was not very much interested.

Q. That is not what I ask you.

MR. WELCH: Let him go ahead.

THE WITNESS: I was not much interested in it, because two of them were magazines which had a very small circulation and were in direct competition with the Curtis magazines, and I did not want to work them together.

By MR. DALY:

Q. How many boys did you say you had?

A. Ten.

Q. How much time do you devote to the Curtis magazines?

A. I bring my copies over Thursday morning. I get down about 6.30 and bring them over from the post office and the boys get down about a quarter to seven or seven and buy their copies and leave in the morning, and I take the copies around to my dealers. It takes a short time only, and then I am right back again.

Q. How many days in a month would it take to distribute those magazines?

A. Counting in hours?

Q. Yes, in hours?

A. I have no idea. I do not imagine I spend over three hours a week.

2837

Q. That would cover all the magazines you handle?

A. I should say so—it would not cover "The Ladies' Home Journal."

Q. I was speaking of all of them; the time it takes you to handle all of them?

A. Once a month I spend another three hours on "The Ladies' Home Journal."

Q. And another three on "The Country Gentleman"? Would that cover it?

A. The three hours I referred to in the first connection covered "The Saturday Evening Post" and "The Country Gentleman."

Q. How much do you get for your services, for a month?

A. I get the regular commissions.

Q. How much would that amount to under your ordinary sales?

A. For a month?

Q. Yes.

A. I think it would be eight or nine dollars.

Q. Now, you teach these boys to sell magazines?

A. Personally every week I talk to most of them.

Q. But you confine your efforts to selling Curtis magazines, is not that correct?

A. Yes, sir.

MR. DALY: That is all

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. The Curtis magazine is the only magazine you handle wholesale, is not that a fact?

A. Yes, sir.

Q. You are at school all day?

A. Yes, sir; regular school hours.

Q. You do not have very much time to devote to other matters, do you?

A. Exactly what do you mean?

Q. I mean the greater part of your day is occupied in attending school, is it not?

A. Yes, sir.

Q. And the rest of the time you are engaged partly in the Curtis business and partly in your amusements, is that the fact?

A. Yes, sir.

MR. WELCH: That is all.

ALEXANDER McLEAN, called as a witness on behalf of the respondent, was first duly sworn by the Examiner, and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Alexander McLean.

Q. Where do you live, Mr. McLean?

A. Chicago, 4419 North Racine.

Q. Is your son the district agent for the Curtis publications?

A. He and I both are the district agents.

Q. You and your son together are the district agents?

A. Yes, sir.

Q. For a certain section on the north of Chicago?

A. Yes.

Q. What section is that?

A. It extends from Division Street on the south to Devon on the north, and the lake on the east to the river on the west, and one little end on the northwest side across the river.

MR. DALY: Speak up a little, Mr. McLean, won't you please?

THE WITNESS: Sure. Do you want me to say that again?

MR. DALY: No.

By MR. WELCH:

Q. You and your son, as I understand it, act as the independent agents for that section?

A. Yes.

Q. Now, what magazines do you handle wholesale?

A. "The Saturday Evening Post," "The Country Gentleman" and "The Ladies' Home Journal."

Q. Only the Curtis publications?

A. That is all.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. How old is your son now?

A. Twenty-two years.

Q. And this contract is in his name, is it not?

A. It is in his name, but I endorsed it.

Q. And you assist him?

A. Yes.

Q. And work with him?

A. Yes.

Q. In conducting the business of this agency?

A. Yes.

Q. Did your son sell the Curtis publications before he became a district agent?

A. Yes, sir; as a boy twelve years of age he sold. They gave him ten on the start and he sold them, and the next week he sold fifty, and got to selling 200, doing so well they finally came to him and gave him a certain district. After he had had that district for four or five years they came to me and said if I would go in with him and take the North Side they would give it all to him, and we have the North Side now.

Q. I see. And that is the way you happened to become interested in the agency?

A. Yes.

Q. And to work with him?

A. Yes, sir.

Q. When did you say your boy first sold the "Posts"?

A. Well, he must have been about twelve years of age. He is now twenty-two years—ten years ago.

Q. That was ten years ago?

A. Yes.

Q. Now, have you found that the training that he had and the work that he did was beneficial to him?

A. The most beneficial thing that ever happened to him. It has made a business man of him. The boy is now worth, as a boy twenty-two years old, he is worth probably $10,000. He has made all of that with the Curtis publications, with the investments he has made of the money. And then he has got 375 boys; he is making business men the same way, practically out of all of them. They save their money. And the boy that don't save his money, he is no good at all. He might just as well turn him out. If the mother and the father don't take care of him, or the both of them—it is the best business training for the child that has ever been put before the public, I don't care what it is.

Q. Now, you have watched your boy go through that training, so to speak, for ten years?

A. Ten years.

Q. And how long have you been working actively with him?

A. The whole ten years.

Q. The whole ten years?

A. Directly—well, now, wait. As a father, naturally I was active with him all the time, seeing he was doing the proper thing, and teaching him and training

him. And the last four years or so I have been active as the agent for these people, and always have had my endorsement on his contract.

Q. Did he win prizes and obtain bonuses?

A. Oh, yes; dozens and dozens of them.

Q. And how much did you say he had accumulated during the ten years?

A. He is worth probably $10,000 himself. Now he has made that off of the Curtis people and the investment he has made from the money he has made off of that. In other words, it has made a business man of him. I will take his word—it is personal, of course, it is my son—it has made a business man of him, that I will put him against any business man in the City of Chicago. That is what it has done for him.

Q. You attribute that to his training as a "Post" boy?

A. Yes, sir; the training that they have given, and what they are doing right now with every Curtis boy they have got. That is what it has done for them, always has done for them and will do with them.

Q. What is it they are doing now with respect to the Curtis boys you have now?

A. They give them free copies to start with. They give them all the encouragement they can in the way of teaching them how to sell goods and approach men, and go out and teach them how to save their money and what to do with their money. It is nothing but business training. It is not a little, quibbling business, either. The boys come to our place and they buy them and they sell them, just like they would in any other business. It is just as big business for these boys as Marshall Field's business is for him, and done the same way. The Curtis people furnish little books, and I have got one right there (indicating). It is as simple a set of books as you can usually find—teaches

them how to keep books. These little children, ten and fourteen, are taught just as well how to keep their accounts, just as well as Marshall Field's and the First National Bank, or anybody else, and the Curtis people have been doing that for years, as I know positively.

Q. And these boys are also instructed right along in the proper methods of selling?

A. They certainly are.

Q. And in keeping their accounts?

A. They certainly are.

Q. And approaching——

A. Approaching people.

Q. ——prospective customers?

A. Yes, sir.

Q. The merits of the article, and so forth?

A. These little, bashful boys will start that business, and it makes them self-assertive, they can put a proposition to a man just as well as a man can, and sometimes better. I will take these boys that have been trained under these Curtis Publishing Company systerms of training, and I will put them against men in our stores, and find them better, and we have 350 boys.

Q. What is the class of the 350 boys.

A. They are the best class that you can get, mostly school boys, naturally. They devote their half day, and one day, and maybe two days to selling the "Post." That is the right kind of a boy, if he is drawing fifty he will stick to it until he sells them. If he is the wrong kind of a boy he will bring most of them back. That is the kind of a boy we try to push along and teach him how to do it. A boy who gives up is no earthly good in our business or your business, or the attorney's business, or anything else. That is what we do, we try to teach them that way.

Q. Are these boys fairly permanent in staying on?

A. Practically they are permanent, yes.

Q. They stay a considerable length of time?

A. Oh, yes, we have got boys that have been with us four years now; some with us near eight or ten, stay with us ten to four years.

Q. How are these boys obtained?

A. Different ways. The best method I have seen, and that is what the Curtis people put out last spring offering twenty-five vouchers for any new boy that would stay five weeks, the Curtis people would give them five brown vouchers—that is a bonus that they can get prizes with. That is the best stunt they have ever put over. Other ways of getting it is giving them —well, little bonuses and that kind of thing. Now, I will show you what that will do—can I talk this way?

Q. Well, I will ask you some questions, Mr. McLean.

A. Oh

Q. Have these boys received prizes and bonuses from time to time?

A. Yes.

Q. Have you any idea of the amount?

A. Well, I can tell you the amount that we have. I cannot tell you the amounts the boys have won. Let me see— We don't keep track of that. One boy got seventy-five dollars, another one sixty-five dollars, something of that kind; another one five dollars, and so on. We ourselves have made in the last four years in bonuses something like eight hundred dollars. It may be even more. We have never kept exact track.

Q. You mean as district agent?

A. I mean as district agent.

Q. That is, in addition to your regular commissions on your sales?

A. Yes, sir. They give the same commissions to these other boys, too, in the way of prizes, and so on.

Q. Do you have meetings of these boys?

A. Yes, sir.

Q. A great many of them?

A. Yes, sir.

Q. Does the Curtis representative come around?

A. Yes, sir.

Q. And he works with the boys?

A. Oh, yes.

Q. And you co-operate with him?

A. Oh, yes, sir; give you all the benefit——

Q. Now, just wait.

A. Pardon me, but I am so enthusiastic I don't know what to do but go ahead.

Q. I am going to give you all the chance——

A. All right.

Q. Do you happen to have done any Y. M. C. A. work in your section with the boys?

A. Not any in particular, no.

Q. Any in particular?

A. There is quite a number of them have had memberships given to them on account of sales.

Q. Do you know a great many of the parents of the boys?

A. Yes. Now, we divide up the territory, and he works one end and I work the other, and we practically know all of the parents.

Q. And do you keep in touch with the teachers of the boys?

A. No, we never have done anything with the teachers at all.

Q. You have never done anything of that sort?

A. No, the mothers and fathers we are after, and the boys themselves. They are the ones that are interested.

Q. You said three hundred and fifty boys; is that correct?

A. Just about that. I think the last report was three hundred and fifty, somewhere in that neighborhood.

Q. Do these boys handle anything else but the Curtis publications?

A. Occasionally they do, but they stop. There is not enough in it. We never criticise if they want to, and let them do it, but we don't believe in letting them do it, because I will tell you something, you can't——

Q. Go ahead.

A. As a business proposition, you can't do two things and do them practically alike. You are going to neglect one or the other. If they sell the Curtis Publishing Company's things and somebody else's, they are going to neglect one or the other. They go to sell—they will work one day on one and then work the other. That is the way they do, but there is not enough in the other to stay with us, so we don't have them take them up.

Q. There have been no special inducements of any sort?

A. I don't know.

Q. Offered by any of the other publications?

A. Oh, yes, sure. The "Examiner" in this town.

Q. I am talking about magazines.

A. That is a magazine, you know the "Examiner"?

Q. Have they a magazine?

A. Yes, sir.

MR. DALY: Let him tell it.

THE WITNESS: The "Metropolitan"—I don't know them all, but there are about five or six. But I am not interested in anything but the Curtis, and I am not interested even enough to take the thing. But here there are about six handled by the Hearst people here, the "Metropolitan" and one or two others. And Hearst's latest stunt they did was to send out a little circular headed "Give to the 'Post' boys," and a blank down here for ten boys to be turned in to them, signed by the "Post"

boy, and only wanting the "Post" boys, and "We will give you twenty-five cents if you will send us ten names."

By Mr. Welch:

Q. Who did that?

A. That is the Hearst people here, the "Examiner" and the "American." That was about two or three weeks ago.

Q. Did you say that these boys supplied regular customers?

A. They do different ways.

Q. How do they do?

A. We advise them both ways. We would rather that they would have all customers, but we advise them to do both ways, to have customers, and peddle on the street.

Now I am going to tell you something about peddling on the street. Once in a while you go to a parent—"Oh, you don't think I would allow my boy to do such a thing as that"? You go to the best people, the people that stand the best in the community both socially and financially and every other way, and they want their boys to do it because it is doing something for their boys. But you go to the no-account people, that don't know anything, and never did get along in the community, never got along with their neighbors or anything else, "Oh, no; we won't let our boys do that." It makes the boys independent and makes them work and understand how to address people and come in contact with people when they get older. The impressions these boys get from ten to twelve are going to be better than the impressions they get at twenty, is my idea.

Q. Was your son ever asked to handle the Crowell publications?

A. My son was.

Q. What happened on that occasion?

A. He just turned it down. He didn't want it. And then they had some of the boys selling for them, but they only sold a few weeks and quit, but he didn't restrict the boys; he let them sell if they wanted.

Q. Was anything said about distributing the Crowell publications through the Curtis boys?

A. That is what they wanted.

Q. What was said?

A. "Just let your boys sell them for us, you will have so much profit on it." That was it—just their regular business proposition, I suppose.

Q. And your boy refused, he didn't care to take it up?

A. Oh, yes. He absolutely turned it down. Now he would have turned that down irrespective of any contract with the Curtis. He didn't want it. There wasn't enough money in it.

Q. Yes. I understand. Did you have any interview at any time with a representative of the Federal Trade Commission?

A. Yes.

Q. What was that interview?

A. They came to my house, I think it was last fall. Now, I was——

MR. DALY: Well, now, Mr. Examiner, I object to that.

THE WITNESS: All right, go ahead. Now, shall I say that?

MR. DALY: As wholly irrelevant whether he had or whether he had not.

THE WITNESS: I will tell you the exact conversation.

MR. DALY: I object to that conversation, Mr. Examiner.

MR. WELCH: I think, Mr. Examiner, it is perfectly competent here to show that he was—show

the situation here, that a representative from the Federal Trade Commission came over to talk with him, and I ask for the conversation that took place between them.

MR. DALY: Well, I object to that. I don't think interviews with the Federal Trade Commission have got anything to do with the issues in this case.

THE WITNESS: I would like to tell it.

MR. DALY: If they can go into all the interviews made my men representing the Federal Trade Commission in these cases——

THE WITNESS: I know this man came up——

MR. WELCH: Wait a minute, Mr. McLean. I will ask you this question——

MR. DALY: I object to it.

By MR. WELCH:

Q. Were you interviewed by a representative of the Federal Trade Commission?

A. I was.

Q. Recently?

A. That is, he said he was.

Q. And did you tell him practically what you have testified to here?

A. Yes.

MR. DALY: Well, we admit that, if that is all you want—strike that out. We admit that we interviewed him. That is what I mean.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. You have about three hundred and fifty boys?

A. Just about; yes, sir.

Q. And you have been in business for a good while, haven't you?

A. Ten years.

Q. And during that time I presume you have had a large number of boys?

A. Yes, sir.

Q. Under your instruction, isn't that correct?

A. Yes, sir.

Q. Now, you have taught these boys?

A. Yes, sir.

Q. How to sell their magazines?

A. Yes.

Q. And how to approach people and sell them, and all that sort of thing?

A. Yes.

Q. Many and many a time, haven't you?

A. Oh, yes.

Q. And what they do about getting the magazines is to buy them and pay for them, isn't that true?

A. Well, we have different ways. They come to us in different districts, where we don't deliver them, come to the house or to the garage, the office, and pay for them as they take them. Other places we deliver and collect for them later.

Q. Yes.

A. That is the way we do.

Q. Now, what else do they do about getting the magazines from you? Is that all, they come and put down their money?

A. Sometimes they do.

Q. And we pay for them, except in some cases?

A. We deliver.

Q. Where you deliver, and you trust them?

A. Yes.

Q. And collect afterwards?

A. And we have certain places where they come to pay us for what they have drawn.

Q. Are there any other transactions about getting these magazines?

A. Well, we deliver part of them.

Q. I know, but what these boys do.

A. Just right now I don't know.

Q. There isn't anything else, is there?

A. No.

Q. Now, then, they go out to the houses, and they solicit and sell on the street, if they sell on the street?

A. Yes, that is right.

Q. And they approach a gentleman or a lady and they sell a magazine?

A. Yes.

Q. And they receive the money for it?

A. Yes.

Q. Now, what else do they do about any financial transactions about the sale of these magazines and anything else?

A. What do they do?

Q. Any other financing that they do?

A. I don't know of any other, only that they save their money.

Q. Now, what particular occupation would that kind of training equip a boy for?

A. Any occupation in the way of business training that a person will ever get in life they get in getting it that way. Now, here is what they do——

Q. Oh, yes, wait a minute. You just answer the question there that I ask you. You have talked along. Let me do some of the talking.

A. I guess that is so.

Q. Now, you have handled a large number of boys, haven't you?

A. Yes.

Q. I suppose in ten years, two or three thousand, haven't you?

A. Well, I would not even dare to say how many. A great many boys, anyway.

Q. Well, there would be a large number in ten years?

A. Yes.

Q. Having 350 now, you have had about that number all the time, haven't you?

A. Oh, not all the time, because when we started we only had about seventy-five boys or eighty.

Q. You have increased the number until it is 350?

A. Yes.

Q. Now, how many magazines does the largest of your boy customers purchase from you?

A. A hundred and seventy-five and fifteen "Country Gentlemen" and fifty "Ladies' Home Journals."

Q. Now, then, when he would come in he would buy them?

A. No, we deliver them to him and he pays us afterwards.

Q. You deliver and he pays afterwards?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. If you sold him 175 "Posts" at so much apiece there would be the calculation to make how much that would come to, is that correct?

A. Yes.

Q. Now, what is there about this training, this financial training you have talked about, that that boy would not learn in public school?

A. He would not learn it practically. With us he learns it practically. That is the difference.

Q. You mean——

A. He can make his change with a fictitious account on a blackboard or on a slate entirely different from where he has the money in his hand and handles it. From us he learns in a practical way. The other way, it is only theory.

Q. And these little calculations he would have to make, your contention is that that is a wonderful——

A. Yes.

Q. ——improvement?

A. It certainly is.

Q. Over what he would receive in school, because he actually pays——

A. It certainly is.

Q. ——for 175 magazines?

A. Or five magazines, or three, or one, whatever it is.

Q. Did you name any occupation that that would equip a boy for?

A. Yes.

Q. Name one now?

A. Mercantile business of any description.

Q. Yes.

A. Dry goods business, men's furnishings.

Q. Yes.

A. The hardware business, a blacksmith shop, automobile business—any business you come in contact with you have to know these things and you ought to to make a success.

Q. You think he can't get them as well as in the schools as he could under the Curtis?

A. I know he can't, because it is practical. Nobody can get anything unless it is practical.

Q. What is the smallest customer you have among the boys?

A. One, one "Post."

Q. How many handle fifty "Posts"?

A. Well, here, now, this is only a guess. I don't know exactly.

Q. Yes.

A. I would say fifty—of that 350 there may be twenty-five to thirty.

Q. Yes.

A. Handle fifty. If it is statistics you want I can give them to you if you want them.

Q. Then these transactions would not be large, they would be just as you have described?

A. Oh, no; they would be small.

Q. They would be small?

A. Yes, but they are small children that are doing it.

Q. Now, you don't pay any attention to any boys except the best boys?

A. Oh, no; we take anybody that will come along, and we have never turned them down, but we will give them copies to sell.

Q. You testified that only the good boys—you don't bother with the others?

A. We don't get the others. They don't stay. We don't go after them to solicit them. We find out they are no good.

Q. You don't give them any training?

A. We give them exactly the same training we do the best boys, but if they are not capable of absorbing that training what can you do with them?

Q. That is what I say, when they show that, you haven't any equipment to handle boys and train boys?

A. Yes.

Q. That don't show a particular aptitude, have you?

A. No; we send them to the psychopathic place.

Q. Oh, well, I am speaking about your——

A. I am telling you, normal boys, too.

MR. DALY: I object to that, Mr. Examiner, that he is not answering the question.

THE WITNESS: Well, I will answer the questions.

MR. DALY: I ask that that be stricken out about taking them to the psychopathic.

MR. WELCH: I think he is answering the question.

MR. DALY: I asked whether he had any equipment to train boys that don't show any particular aptitude.

THE WITNESS: You are trying to make the point the unfortunate people we don't care for. We are the most sympathetic people in the world. We get that partly from the Curtis people, because they are the same way.

MR. DALY: Hold on.

EXAMINER MOORE: Hold on.

MR. DALY: I ask that that be stricken out, because it is not in response to my question at all. I ask that that be physically stricken out of the record, with reference to the Curtis Company being so big hearted, and something to that effect.

EXAMINER MOORE: The motion is granted.

THE WITNESS: What does this mean?

By MR. DALY:

Q. Your boy has made a large sum of money, has he?

A. Yes; he has made it in this.

Q. Does he do anything else now except sell these magazines?

A. Yes.

Q. What investments has he made?

A. Well, he has got a garage and a piece of land that he gets——

Q. Land——

A. That he gets $93 a month on.

Q. He gets revenue from these other things?

A. Yes. And then he has a bond of $1400 with the Curtis people that he gets 5 per cent. on.

Q. Yes.

A. He has money in the savings bank that he gets 3 per cent., and so on. I could not exactly give you all those things.

Q. I don't want all of them.

A. I am just giving you a few of them.

Q. Now, he gets an income out of this garage, does he?

A. Yes, and an income out of these others, too, as well as these percentages here and there.

Q. How long has he run this garage?

A. He has had that for four years.

Q. Now, how much a month does he get out of this garage?

A. Well, he gets out of that garage $93 a month net, about.

Q. Now, these boys have gotten bonuses from time to time, haven't they?

A. Yes, sir.

Q. Did you say that you had gotten any bonuses?

A. Yes; the last four years we have gotten about $800.

Q. That $800 was derived from the increase in the sale and the circulation?

A. That is it.

Q. Through the boys, was it?

A. Through the boys.

Q. How much did the 350 boys get?

A. There was one boy got $75 and another one got $75, and now I would not know that. I could not tell you that—we didn't keep track of that. There are too many of them, and their little five dollars and two dollars and one dollar and so on that we don't pay no attention to, because it was too many.

Q. If they got it, it was for increasing their magazine sales, wasn't it?

A. Yes.

Q. About how many magazines do you handle?

A. Well, our net sales during the winter have been

running about ninety-three to ninety-four hundred They are running now a little bit less.

Q. Is that altogether, or just the "Posts" alone?

A. That is the "Posts." And "The Country Gentleman" has been running about seven to eight hundred.

Q. Yes.

A. And "The Ladies' Home Journal" about fifty-five hundred. They run a little less now on account of the time of the year.

Q. How many "Country Gentlemans" did you say?

A. Well, I should say our net sales now would be about 750 to 800 now, a little later on, or earlier it was more.

Q. How many did you sell ten years ago?

A. Ten years ago we started with an agency of 200.

Q. Five years ago how many did you sell?

A. Five years ago we were selling mighty near as many as we are now, not quite so many. That is when we got the agency started.

Q. When did you get your agency up to a large number?

A. Well, we got the large number about four years ago, but the boy had been making money before that out of his "Posts," when he was sixteen and seventeen years old, before that.

Q. I understand.

A. You know, and the money accumulates.

Q. Never mind, now, about the accumulation. Answer the question?

A. All right.

Q. About four years ago, then, it was about like it is now, is that correct?

A. Yes.

Q. And what was it five years ago?

A. Five years ago it was not so much by any manner of means, because we only had the one agency. It was about a thousand or 1200.

Q. So that four years ago, then, the agency was comparatively small, is that correct?

A. That is right.

Q. Would it be fair to say it sold 1000 magazines of each issue?

A. Yes, sir.

Q. Six years ago?

A. Yes, sir.

Q. And seven years ago?

A. Sold more than that.

Q. Eight, nine or ten years ago it ran along about that; would that be a fair estimate?

A. Yes.

Q. For the last four years, then, you have sold about 9500 copies, is that correct?

A. Oh, sold more than that, but the average would probably be about.

MR. MILBURN: That is the "Post" alone?

THE WITNESS: "Post," "Ladies' Home Journal" and "Country Gentleman," too.

By MR. DALY:

Q. That is the whole three put together?

MR. WELCH: Let him state.

THE WITNESS: Oh, no; that is not the whole three, that is the "Post" alone; you asked the "Post."

By MR. DALY:

Q. Well, I am asking for the three now.

A. Well, the "Post" in the winter will average about ninety-two to ninety-three hundred.

Q. Yes.

A. In the summer it will go down a thousand less than that.

Q. About eighty-two?

A. "The Country Gentleman" in the winter has been running about nine hundred and fifty. Now it will go down to be about eight hundred and fifty.

Q. Now, then, "The Ladies' Home Journal"?

A. "The Ladies' Home Journal" in the winter months in the year, it will run about sixty-five hundred, in the winter months runs about fifty-eight hundred, and now runs a trifle more than five thousand.

Q. Now he had no other business, had he, than this?

A. No.

Q. And did you?

A. Well, I have had a little income of my own right along, certainly.

Q. How did this boy live during this period, live with you?

A. Lived with us, without cost to him at all.

Q. Now, how do these industries in Chicago get their boys to do this work?

A. Do what work?

Q. So that they can make a calculation for a hundred and seventy-five magazines.

A. Well, we used to advertise for help and we would try them out. One of my help I had, and got because she had a school education, cost me thirteen hundred dollars because she had not—if she had had practical experience I would have had the thirteen hundred dollars yet. That is the way I used to get them, from friends, or advertise.

Q. There are thousands of boys coming out of the common schools in any industry, lots of industries?

A. I am just telling you my particular experiences there. I spent some money on it. I don't know, I am only telling you what I used to do.

Q. I am asking you whether or not it is a fact that all these tremendous industries in Chicago employ a large number of children; isn't that correct?

A. Oh, yes.

Q. And they take them out of the schools, don't they?

A. Yes, and then they train them. Did you ever go to some of these places and see the training schools for them?

Q. Yes, I have seen them.

A. That is what we do with the Curtis people the same way. They would not dare take an inexperienced theoretical person and put him on the books with any degree of assurance that he is going to do anywhere near right. You have to give them experience. They have to have experience that is practical.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Now, Mr. McLean, when you get a boy that is not quite up to the mark, or inefficient in any way, you give him some instruction and work with him in the same way as you do the others?

A. Practically the same way, yes.

Q. Until he shows that he is not the kind of a boy that is going to be fitted for the work?

A. Then we will have to drop him, yes.

Q. Now, this question of the benefit that a boy gets, it is not a mere question of making change and that sort of thing, as Mr. Daly has talked about, is it?

A. Oh, no.

Q. But the boy keeps improving?

A. It is the manner in which you can approach people more than anything else.

Q. Well, he has to do more than merely make the change in selling a magazine?

A. He has to sell it; he has to use his ingenuity to sell it. Is that what you mean?

Q. He has to keep his own accounts, doesn't he?

A. Oh, yes.

Q. And finance it?

A. Yes. We have had boys come in that they could not even make change, they would lose money the first week or two, but the practical experience and the few knocks they got, when they came back to me—"I had five 'Posts' and over got fifteen cents? Where is my ten cents"? And when we would show them, he didn't let it happen again. That is what they got out of it in the practical way.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. You said that in some instances you—or the boys, rather,—ran accounts with you. In how many instances out of these 350 boys would that happen?

A. There is more of them than pays at the house. There is about—I would not dare say, I could not say.

Q. Oh, well, approximately?

A. Well, two-thirds of them don't pay us. We collect it afterwards.

Q. And how do you remit to the company?

A. Every week, every Monday morning, on the 20th of each month.

Q. You remit regardless of whether the boys have paid you or not?

A. Oh, yes; we remit according to our drawings. If we ask for 10,000 we pay for the 10,000.

Q. And you have never failed to send that in at the end of the week, is that correct?

A. Never have yet; no, sir.

Q. And all the time the boys have not——

A. ——always returned.

Q. A large number of the boys have not made their returns?

A. Here is our system: They come to the garage, our office, and pay for the ones they get.

Q. Yes.

A. We deliver them Wednesday night and Thursday morning. They sell them Thursday and the first collection we make is three o'clock or three-thirty Friday afternoon. We have the boys meet us at different stations, and they bring their money there. Then, on Saturday morning, or Saturday noon, it is all over. So we have got all the money in for that week we are going to get in.

Q. I thought you said you ran accounts with the boys.

A. We do.

Q. I am speaking of the boys you run accounts with.

A. I am speaking of that, too. Isn't it running an account if we deliver them on Wednesday night and let them pay us Thursday, or Saturday? And then if they don't show up, they still owe us for the next week. We don't go after them for that week, because we have confidence in the boys. Most of them are pretty square. We wait until the next, and if at the end of two weeks they have not paid, we go after them and look them up.

Q. There would be instances where it would run as much as two weeks?

A. Quite often.

Q. Or three weeks?

A. Once in a while, but not often.

Q. Quite often run two weeks, wouldn't it?

A. Oh, yes; quite a number of instances.

MR. DALY: That is all.

RE-RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. That credit you give these boys you give at your own risk?

A. At our own risk.

Q. The Curtis Company has nothing to do with that?

A. The Curtis Company has nothing to do with that at all.

MR. WELCH: That is all.

MRS. I. B. STURDEVANT, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Mrs. I. B. Sturdevant.

Q. Where do you live?

A. St. Louis.

Q. Are you the district agent for the Curtis Publishing Company for a section of St. Louis?

A. I am district agent for the West End.

Q. How long have you been district agent?

A. Since October, 1912. I sold in the country before that as branch agent.

Q. You became branch agent in February, 1912?

A. February, 1912.

Q. And then you became district agent for the West End section in October, 1912?

A. October, 1912.

Q. What magazines do you handle wholesale?

A. Curtis publications only.

Q. Do you wholesale any newspapers?

A. No newspapers.

Q. Speak up a little bit.

A. No newspapers, Mr. Welch.

Q. Did you have any instructions or training at the time you took up the agency with respect to the boys?

A. Yes, I did.

Q. Where did you obtain that? How did you obtain it?

A. St. Louis has a branch manager and I was trained under the branch manager.

Q. Who was he?

A. I gained my training with Mr. Frank T. Randall; later on under Mr. Howard.

Q. And he instructed you in the proper methods of the sale and distribution of the Curtis publications?

A. I learned the Curtis ideals and Curtis methods from Mr. Howard.

Q. Now, do you supply any dealers at all?

A. No dealers at present.

Q. You sell the Curtis publications entirely through boys, is that it?

A. Through boys entirely; no adult agents.

Q. How many boys do you have?

A. The number varies a little bit. I have 187 the last time I counted; it runs from 180 to 200.

Q. And who are these boys? What is the character of them, what kind of boys are they?

A. Why, they are boys of good families, the very best families in the West End and the West End is the —some of the best residence part of St. Louis.

Q. I suppose most of them, practically all of them are school boys. Aren't they?

A. Schoolboys, yes.

Q. And do you know the parents of the boys in a great many cases?

A. I make it my business to know the parents of

the boys in almost all cases and know them personally through the boy, either over the 'phone or by visiting at the home.

Q. You have visited a great many of the homes?

A. Many of the homes; I try to do it occasionally.

Q. Whom do these boys supply, generally speaking?

A. Why, all of them have some regular customers and most of them have a majority of their customers as regular customers.

Q. Yes.

A. My boys take care of ten or twelve corners. We try to cover the important street car intersections in my territory. I try to keep a boy at each intersection.

Q. A great many of them have regular customers?

A. These boys even on the corners most of them have their regular customers whom they depend on for sales.

Q. Do these boys that you have got now—have they won any prizes or premiums of any large amount?

A. Yes, I have boys now who have won some large prizes, and I have had many boys who have won large prizes.

Q. To what extent? How much in the way of money in other prizes?

A. The first boy that I trained to any degree of efficiency was Hugh McNally, and he won a pony and cart and harness worth about $150. He was offered $150 for it, in fact,—as work for "The Country Gentleman" especially.

Q. "The Country Gentleman"?

A. That was a "Country Gentleman" special.

Q. What other prizes have the boys won?

A. Frank Beck, one of my early boys, won a $20 cash prize, and Clifford Ash won a $20 prize, and Julius Curley won a $50 merchandise prize last year.

Q. Did you ever have a boy win $200?

A. Grover Gaffney, in the summer of 1918, on a special effort, won $200, that is, we won it.

Q. Have you ever received a bonus?

A. I have.

Q. And payments besides the commissions that you made on the sales of magazines?

A. Yes. During 1916 I won a bonus on every offer that was made.

Q. That is a very material matter to you, isn't it, in addition to the commissions?

A. Why, it increases the profits very noticeably.

Q. Did you ever have anything to do with the principals of the schools that these boys go to?

A. I make it my business to know the principals of the schools. In fact, I do know the principals of the schools in my territory, and other territories in which I have worked for the company.

Q. Do you keep in touch with the standing of the boys in school?

A. Yes; I do; and frequently ask the principal of the school in regard to the boys and what their standing is.

Q. Now, how many times do you have meetings of these boys?

A. Well, I have a Ten Club myself that meets practically every two weeks. In addition to that, every Wednesday when the Ten Club boys come, or every Thursday when the other boys come in, I separate them according to their sales when they come in for their copies, and we have instruction on the selling features of the particular publication for that special week. We talk about the cover, analyze it, and discover whether the cover is a good selling feature, whether the cover will sell the copy or whether we must refer to something inside. All my emphasis is on selling their goods.

Q. Then you analyze the publication itself?

A. And have the boys do it.

Q. In certain cases?

A. I ask them to do it.

Q. How often do you have these meetings, did you say?

A. My Ten Club meets usually in two weeks, sometimes it has to be postponed to once a month.

Q. How often do you get the boys as a whole together?

A. The entire gang?

Q. Yes.

A. Not very often; it is too many.

Q. I do not mean the 190, but the majority of them, do you have any regular meetings?

A. About once or twice a year. That is about as much as you can stand that many boys together.

Q. Not altogether, but you do have these little meetings of these clubs?

A. Yes, we have them in groups; yes. One hundred and ninety boys is too many.

Q. You have these other meetings?

A. Just the Ten Club.

Q. The other group meetings?

A. I take my weaker boys, that sell a few copies, and I get them together separately and make my talk to them in proportion to their strength and ability.

Q. Yes?

A. But the Ten Club can stand a stronger diet than the others.

Q. Now, do these boys handle any other magazines or newspapers that you know about?

A. Occasionally I think they have experimented a little, but not often.

Q. About how many that you know of?

A. I only know of two boys really that have handled anything else.

Q. Two out of all of them?

A. Yes; one or two boys handle newspapers, daily newspapers.

Q. That is a spasmodic sort of thing, is it?

A. It does not last long.

Q. Now, in obtaining these boys and keeping up this organization, did the Curtis Company or the Curtis traveling representative assist you?

A. Yes. Men come there at times for special efforts to get boys. Mr. McLowton, and last year Mr. Neer and Mr. Waymon, different Curtis representatives come there, and then the company makes very many special efforts themselves by making prize offers to the boys.

Q. And that brings in new boys?

A. Yes. I also make a special effort on that because it means getting new material in the club when I get in the boys.

Q. Is the boy force a fairly permanent one?

A. I have boys now who have been selling six years. They are getting so big that I am afraid they won't stay much longer, they are getting other interests.

Q. Now, during those six years' experience, during the time you were district agent, you had experience in watching these boys and instructing them?

A. Yes.

Q. Would you say that it had been beneficial to the boys as a whole?

A. Oh, I know it.

Q. Well, is there any particular respect that you could speak about in which it has benefited the boys?

A. There is a boy (indicating picture) that I had from the time that he was a small boy, and this boy is now a bank examiner.

Q. What is the name? That don't go in the record.

A. Elmer Gale.

Q. Elmer Gale. Just show that to Mr. Moore.

(Witness exhibited picture to the Examiner.)

EXAMINER MOORE: That is an old picture.

MR. WELCH: Indicating the picture of one of our boys.

EXAMINER MOORE: Was that six years ago?

THE WITNESS: Yes.

EXAMINER MOORE: How old is he now?

THE WITNESS: Elmer is eighteen.

EXAMINER MOORE: A bank examiner now?

THE WITNESS: A bank examiner now, in a small way, of course, but he goes to Kansas City and around different places. He began when he got out of the eighth grade. May I tell you about this?

By MR. WELCH:

Q. Oh, certainly; I want you to.

A. In the eighth grade, when he got about fourteen his mother began to have trouble with him. She is a widowed mother. She appealed to me. So I took it up with Elmer, and got him to be a member of the League of Curtis Salesmen, promising him that if he would make certain sales he could do it. I kept him from quitting school and I kept him from losing his grades, because the company required that the boy must make good marks in school. So I appealed to Elmer in that way, and through the principal of his school, Mr. R. L. Barton, and his mother and grandmother and Mr. Barton, we all worked together and showed him what it would mean to him to do this. And then when he got out of school he got a position in the Mechanics' American National Bank. I went to see Mr. Allen about three or four months afterward and

he said, "If you have any more boys like that, send them to me and I will take them."

Q. Who is Mr. Allen?

A. Mr. Allen is—I don't know just what—I just know him when I see him in the office.

Q. What bank?

A. He is with the Mechanics' Bank.

Q. He is in the bank?

A. I do not remember what tag is on his office. Elmer is now with the Merchants-Laclede Bank. He has been promoted four or five times. He came to see me a short time ago.

Q. That is one case that you speak of. I suppose that there are other cases where the boy has been very much benefited?

A. Very much benefited. I have a small boy who is the son of a widowed mother and he only sold five copies when he began, and was exceedingly stupid. I took it up with his mother. He could not keep account of his money at all. So she called me up and asked me if I thought Robert had better quit. I said, "By all means no. Let me have him three months more." He could not make change; in fact, he very seldom got home with as much money as he started out with for a while, and his mother considered it a bad investment. But his mother and I together have been very busy and we co-operated with him. At the present time, at the last call his mother made on me in regard to it, she said, "Robert is able now to go out and deliver all his copies"—he is taking ten copies now—"and to come in with the entire amount of cash, and he can make change." He is only eight years old.

Q. How old is Robert?

A. Eight years old. And his mother has persisted in it, even at the loss of money, for the sake of principle, and the boy, and she helps him keep his accounts

every week. I had another boy, Douglas Crockwell. His father is in the wholesale leather business. And Douglas's father has had me teach his boy. He is not selling now on account of the condition of his health. And his father told me that he makes Douglas account for every cent of his profits. Every week they go over the book that the gentleman showed here.

Q. Yes?

A. And they figure his profit, and a certain amount is laid away for spending money and a certain amount is put aside in a permanent fund, and the father and Douglas attempt to account for every cent that is earned in prize money and bonuses and everything else.

Q. Now, Mrs. Sturdevant, were you asked to take on the wholesale distribution of "Every Week"?

A. Yes, sir; I was approached in regard to it. A man came to see me and asked if I would handle it, could handle it.

Q. What did he say? Speak about boys in any way?

A. Well, he suggested that I had an organization and it would not be any more trouble to handle that than it would the other.

Q. What organization did he speak about?

A. The boy organization; he knew that I was district agent. He came to me because I was district agent for the Curtis Company.

Q. And he wanted you to use the boys in the business?

A. That was the understanding, that it was not necessary to increase my efforts particularly to increase the profits.

Q. Did you refuse it?

A. Yes; I did.

Q. And what was the reason?

A. Well, I believe in the boys concentrating on one

thing. I believe in concentration. I think it pays me and pays the boys. I believe that to handle one line of goods and handle it well is better than to divide up.

Q. Did "Collier's" ever ask you to take on their publications?

A. Yes; a representative from "Collier's" asked me to take over their entire wholesaling trade there.

Q. What did you do about that?

A. I did not take it.

Q. Did they say anything about distribution through these boys?

A. Yes; they suggested that I knew the city and I knew the organization. I had been working doing special work for the Curtis Publishing Company and I knew the city thoroughly from one end to the other, under the branch manager I had worked.

Q. As a matter of fact, the only way you distributed was through boys, wasn't it?

A. Through boys, that is all.

Q. That is all; you don't supply any dealers at all?

A. I don't supply any dealers at all.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. When was it that "Collier's" representative saw you?

A. I believe that it was along in the early summer of 1916. I discarded it and did not try to remember it.

Q. When was it that the Crowell representative saw you?

A. I think it was some time during the same year. I am sorry I don't remember those things well, but I discard things that I haven't any use for and I just did not try to remember it. But it was soon after they

organized for the purpose of making distribution through boys. You perhaps know; I don't know.

Q. Who organized, the Crowell?

A. Yes, they have the boy organization, I understand.

Q. Yes, and about the time they were organizing?

A. About the time it went from the "Every Week" over to the Crowell, about whatever time that was.

Q. Do you know anything about the Crowell organization boys?

A. Not very much. I know they have issued some literature that looks very much like our Curtis stuff.

Q. As a matter of fact, they are building up an organization of boys, isn't that correct?

A. I presume so.

Q. Yes?

A. I see their attempts.

Q. Now, you are interested in your boys making all the money they can, aren't you?

A. I am more interested in their learning to be men, business men.

Q. Yes, I will agree in your case that that is true; I think you are.

A. Yes, sir.

Q. And I think it is a very commendable thing.

A. I do not emphasize the money as much as the other.

Q. But I am asking you, would you like to have them make money, too?

A. Oh, yes; the money is the measure of success in a way.

Q. Yes, and take an instance where a magazine, one magazine would come out the tenth of the month and another one would come out the twentieth of the month, would that interfere in any way if you were to take on this other magazine?

A. I don't place any obstruction in the way of them doing it.

Q. No; would it interfere with your boy organization?

A. Only there would be one more publication to learn the selling points of.

Q. You could teach that very readily, couldn't you?

A. I think I could.

Q. Yes.

A. I suppose I could.

Q. And therefore these boys could be working with other magazines if permitted to do so?

A. Well, as a rule I think the parents don't want them to do anything.

Q. They don't want them to, but I am asking you if as a matter of fact they could handle another magazine, leaving out what the parents want or anything of the kind.

A. As far as ability is concerned?

Q. And as far as time is concerned?

A. It may be.

Q. They have ample time.

A. No, most of those boys are very busy.

Q. Are what?

A. Are very busy. Many of them are Scouts and they are working for the Red Cross and the different organizations—the Y. M. C. A.

Q. Yes?

A. And selling bonds; and some of them threaten to drop out.

Q. This is an unusual time, but in the ordinary days they could have done it, couldn't they?

A. Well——

Q. In the usual and ordinary times they are not so wonderfully busy, are they?

A. Well, I don't know. I think they have about—

Q. How much time, now, would a boy devote to selling "Posts"?

A. Depends on the number of sales he has. Some boys get through Thursdays, others sell Friday after school, and others even finish up Sunday morning.

Q. How many magazines does the largest—How many magazines is the largest number any of your boys handle?

A. At the present time not over fifty. I have had boys who sold as high as 105 "Posts." I had one boy sold eighty-five "Country Gentlemans"?

Q. You don't encourage them, is that it?

A. Beg pardon?

Q. You don't encourage them, is that correct?

A. Not ordinarily. The boy that sold that many injured his health, I think.

Q. Then the usual number and the average is probably fifty, or something of that kind, is it?

A. That is about the average.

Q. Yes, and it would not take very long to handle that number of magazines for a boy, would it?

A. It is not a question of handling; it is a question of getting new customers and keeping them.

Q. As a rule, when they get the customers don't they keep them?

A. Every week the boys come in with a wail that somebody has quit, somebody has moved.

Q. And then they are supposed to go out and make up that customer, is that correct?

A. Yes, sir.

Q. Then there is quite a large overturn among the customers, isn't that true?

A. Well, in this way: people move out of the city or into other territory, a boy can't go all over the city.

Q. If a boy leaves the territory, quits you, what does he do with his customers?

A. I try to have him sell them to some other boy in the territory.

Q. Sell them, do you?

A. Yes, sir.

Q. In how many instances does that happen?

A. We always arrange to take care of the customers as nearly as possible—we always take care of the customers in the territory.

Q. I understand that; I was finding out what the boy did, what became of him.

A. I always recommend him to another district agent in the territory where he goes.

Q. You start him in there?

A. I give him the name and address of the other district agent. We co-operate.

Q. Now, did any boys want to handle "Collier's," do you know?

A. I didn't ask them.

Q. You never heard them say?

A. I never heard them say actually. I have some ask me for it occasionally, but I say I don't handle it.

Q. Some boys ask for it?

A. Some customers ask the boys, I suppose.

Q. And would that same condition apply in the handling of the Crowell publications, customers ask for them from your boys?

A. I don't know that they have, not to my knowledge.

Q. Then it never happened in your business that boys were told that if they got "Collier's," if they handled "Collier's," they could not get the Curtis publications, is that correct?

A. Oh, I never placed any restrictions on them.

Q. No?

A. I simply did not have it.

Q. If they could go out and make more money, you would be willing, isn't that correct?

A. I would let them do it.

Q. You are under the new contract, are you?

A. No, sir.

Q. You are still under the old contract?

A. I think so; it is in nineteen——

Q. Why, haven't you changed?

A. I haven't been asked to.

Q. Haven't been asked to change?

A. No, nothing was said about it.

Q. Now, this boy examiner in the bank, I wanted to ask you about that.

A. Yes.

Q. When was it he first left you and went into the bank?

A. It has been about four years, I think a little less than four years, perhaps.

Q. What did he do in the bank?

A. He went in as messenger boy or just general office help to Mr. Allen first.

Q. Then after he got his first promotion, do you know what he did?

A. What he did there?

Q. Yes.

A. Why, he ran an adding machine.

Q. What is that?

A. He ran an adding machine. He has gone through all the steps up, everything that is to be done, I suppose.

Q. He has worked his way right up through the bank?

A. He has gone right up; they have tried him out in pretty near everything in the bank.

Q. When he left you he went in as messenger?

A. He went in as a special office boy for Mr. Allen.

Q. He has been there four years and has become bank examiner; has he been in more banks?

A. He has been in two banks, the Mechanics-American and now the Merchants-Laclede.

Q. Now he is in a position in the bank, what you call bank examiner?

A. He is assistant examiner, of course.

Q. He is not a full examiner?

A. No, he is only eighteen.

Q. He is an assistant to the examiner?

A. Yes.

Q. Who is that examiner?

A. I cannot tell you.

Q. Do you know whether he is a Government examiner?

A. I don't know.

Q. Or is he for the State?

A. He is a Federal examiner.

Q. He assists the Federal examiner, is that correct?

A. Yes, that is what I understood him to say.

Q. He goes in National banks?

A. Yes, he goes in National banks.

Q. Do you know what school he attended while he was going through the bank?

A. Oh, yes; while he was going through the bank?

Q. Yes.

A. Yes, he attended a school of shorthand and typewriting. Do you care for the name of it? I don't think of it just now.

Q. That doesn't make any difference.

A. It is over on Delmar Avenue.

Q. What else did he do?

A. He attended night school three years, just quit last year.

Q. What did he learn at night school, the usual branches?

A. He learned stenography and bookkeeping, and some complicated bookkeeping. I didn't pay much attention to that.

Q. Is that all he learned in the three years?

A. Really I don't know. I simply know that he goes.

Q. He went for three years?

A. Yes, he went for three years. I am sure—I know he was going last year. I think he studied Spanish.

Q. Did they have a course in banking?

A. Yes, I think he took a course in banking.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You said the largest number of "Posts" that a boy handled was fifty?

A. At present.

Q. At present?

A. Yes, sir.

Q. Now, that same boy handles "Ladies' Home Journals," doesn't he?

A. Handles twenty-five "Journals."

Q. Twenty-five "Journals"; and he also handles "Country Gentleman"?

A. Ten "Country Gentleman."

Q. Ten "Country Gentleman"?

A. Yes.

Q. Now, that is about all that a little boy of the character you have that goes to school, has time to handle, isn't it?

A. So far as I think, as busy as the boys are. I call the mothers and try to get them to increase the sales and she said, "He is going the limit of his strength, he can't do any more."

Q. I am speaking about other magazines; the boys you have are school boys?

A. All school boys.

Q. They have to have some time for play?

A. Yes.

Q. You think one magazine is about all they can handle?

A. I think one group is enough.

Q. One group?

A. For the boy's sake.

Q. You don't know, Mrs. Sturdevant, anything, do you, about as to whether the Crowell company actually has any boys' organization of its own, do you?

A. I know that they issue literature.

Q. I know; that is all you know about it, isn't it?

A. Whether it has an organization or not, I don't know. I know they issue literature because I have had it.

Q. You do know they have tried to get your boy organization, don't you, though, yourself?

A. Yes; they wanted me to use my organization.

Q. Yes?

A. Which I had.

Q. Now, the Curtis Company has aided you considerably in the forming and maintaining of that organization, has it not?

A. Oh, yes; very materially.

Q. No other publisher has offered you any such encouragement or aid, have they?

A. No.

MR. WELCH: I think that is all.

MR. DALY: That is all.

EXAMINER MOORE: We will take a recess until two o'clock.

(Whereupon, at the hour of 12.50 o'clock P. M. of said day, May 21, 1918, a recess was taken until 2 o'clock P. M. of the same day.)

(After recess.)

(The hearing was resumed at 2 o'clock P. M., pursuant to the taking of noon recess.)

CYRUS BENEDICT, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Racine, Wisconsin.

Q. What is the population of Racine?

A. Forty-eight to fifty thousand.

Q. Are you the agent for the Curtis Publishing Company?

A. Yes, sir.

Q. And how long have you been such agent?

A. Since 1909.

Q. What other business are you engaged in?

A. I am employed in the post office.

Q. Do you wholesale any other magazines than the Curtis publications?

A. No, sir.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. Retail any magazines or newspapers?

A. No, sir.

Q. How do you deliver the Curtis publications in Racine?

A. By automobile.

Q. And also with boys?

A. Yes, sir.

Q. How many boys do you have?

A. Twenty-one.

Q. What is the character of the boys you have?

A. Very good character and all school boys.

Q. Do you know the families of most of the boys?

A. Most of them personally.

Q. Do you work with the boys?

A. Yes, sir; to some extent.

Q. And has the Curtis Publishing Company assisted you in getting these boys and maintaining your organization of boys?

A. Yes, sir.

Q. In what way?

A. Advertising in the local papers whenever I want more boys.

Q. And the road men have helped you at times?

A. Yes, sir.

Q. Have any of those had Y. M. C. A. memberships from the Curtis Publishing Company?

A. Yes, sir.

Q. How many?

A. Two or three—I do not remember how many.

Q. How long do the boys generally stay with you?

A. Until they get too old to sell, generally.

Q. And it is a fairly permanent force?

A. Yes, sir.

Q. Have you discussed the benefit that the boys have received from the company in this Curtis organization with the parents of the boys?

A. Yes, sir.

Q. And, briefly, what is the result of that?

A. Well, it resulted in the parents aiding the children all they could to obtain membership in the League of Curtis Salesmen.

Q. Have the parents expressed their approval of the benefit the boys get from this organization?

A. They have, to me.

Q. You have talked to a number of the parents about it?

A. Yes, sir.

Q. What other magazine wholesalers are there in Racine?

A. Three others.

Q. Who are they?

A. Harry Hincheliff.

Q. What does he wholesale?

A. All the daily papers, Chicago and Milwaukee and Hearst publications and other magazines.

Q. And he is the big wholesaler in Racine?

A. Yes, sir; the big wholesaler.

Q. He has been in business some years back?

A. Yes, sir; seven or eight years at least.

Q. He is the big magazine wholesaler there, is he not?

A. Yes, sir.

Q. Who is the other magazine wholesaler?

A. W. H. Hall, who has "Collier's," and N. P. Nealon, who handles the "Milwaukee Leader."

Q. Were you ever asked to wholesale "Collier's Weekly"?

A. Yes, sir.

Q. What happened in connection with that?

A. I was asked to wholesale it, and I told the representative that I did not have time.

Q. Now, how did the representative want you to wholesale it?

A. He suggested that I put it out through the boys and dealers the same as I handle the Curtis publications.

Q. What did you say?

A. I told him the boys had all they could do to work with the Curtis publications without any others.

Q. Did you ever see or hear of or know a man by the name of Mr. Arns?

A. No, sir.

Q. Are you under the new contract?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When were you asked to handle "Collier's"?

A. About three years ago—two or three years ago.

Q. Have you been approached to handle "Collier's" since?

A. No, sir.

Q. At the time you were asked to handle "Collier's" the only reason for not taking it on was you did not have the time—was that true?

A. That is the principal reason.

Q. Was there any other reason?

A. Yes, sir.

Q. What was it?

A. I did not want to have my boys handle it and take their time away from the Curtis publications.

Q. Why not?

A. It would injure the Curtis business, I thought.

Q. How did you know it would injure the Curtis business?

A. From the fact they would have to devote time to sell "Collier's," and if they had any extra time to devote, they could develop it to the Curtis publications.

Q. Does "Collier's Weekly" compete with "The Saturday Evening Post"?

A. No, sir.

Q. Does it not appeal to the same class of readers?

A. No, sir.

Q. How much time do the boys devote to the selling of the "Post"?

A. Usually on Thursday and some on Friday and some part of Saturday before they are through.

Q. Do any of your boys sell any other magazines?

A. No, sir.

Q. Do you object to their handling other magazines?

A. Yes, I do.

Q. Why do you object?

A. From the fact that if they wish to devote more time to magazines, they have three publications of the Curtis people which would probably increase their profits as much as any other magazine they would handle.

Q. You do not take the boys' wishes in the matter as binding at all?

A. No.

Q. Were you asked to handle "Pictorial Review"?

A. No, sir.

Q. What is the circulation of "The Saturday Evening Post" through you?

A. At the present time?

Q. Yes.

A. Between eight and nine hundred copies.

Q. And "The Ladies' Home Journal"?

A. Five hundred and sixty.

Q. Do you serve retail dealers?

A. Yes, sir.

Q. How many copies of the "Post" are sold through the boys?

A. About 525.

Q. And how many through the dealers?

A. About 325.

Q. How many retailers have you in that town?

A. Twenty.

Q. Do you serve them all?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Most of these boys are school boys, are they not?

A. Yes; they are all school boys.

Q. They do not have much time out of school to do anything else, do they?

A. No, sir.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. What time do these boys get out of school?

A. Four o'clock.

Q. They go from nine in the morning until four in the afternoon?

A. Yes, sir.

MR. SPIESS: That is all.

LOUIS EHRHARD, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Menominee, Wisconsin.

Q. What is the population of Menominee?

A. Between five and six thousand.

Q. What is your business?

A. I am a druggist by profession.

Q. Are you also the district agent for the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you been such district agent?

A. About fourteen years.

Q. What magazines do you handle wholesale?

A. Not any.

Q. Except the Curtis publications?

A. Yes.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. How do you make distribution of your Curtis publications?

A. They come and get them.

Q. Who comes and gets them?

A. The dealers.

Q. Do you distribute or sell them through boys?

A. Yes, sir.

Q. How many boys have you?

A. Five.

Q. And to whom do the boys distribute?

A. Most of them have regular customers and some sell to outsiders if they can.

Q. What is the largest number of boys you have ever had at any one time—have you ever had more than five?

A. Yes; I had nine at one time.

Q. How many dealers are there?

A. Three.

Q. When you get a boy in this Curtis work do you coach him or teach him anything about the selling of your magazines?

A. Yes, sir.

Q. Do you receive pamphlets and books from the Curtis Publishing Company, giving instructions on those subjects?

A. Yes, sir.

Q. Have you ever seen a copy of "How to Sell"?

A. Yes, sir.

Q. You have a copy of that?

A. Yes, sir.

Q. That book is used for the boys?

A. Yes, sir; all the boys have read it or have had an opportunity to read it.

Q. Is there any pamphlet or periodical published

for district agents that comes to you from the Curtis Publishing Company?

A. I get the literature from the home office at different times.

Q. The district agent?

A. Yes, sir.

Q. The Curtis Company aids you and assists you in getting these boys together and in keeping the organization together?

A. Yes, sir; very materially.

Q. The roadman comes around from time to time?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

MR. SPIESS: No cross-examination.

L. A. NELSON, was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Nelson, are you associated with the Curtis Publishing Company?

A. Yes, sir.

Q. And what is your business—what capacity?

A. I am roadman.

Q. What district do you cover?

A. At the present time, Wisconsin and northern Michigan.

Q. How long have you been roadman for the Curtis Publishing Company?

A. A little over five years.

Q. You have been in that district how long?

A. Since last September.

Q. Are you familiar with all the towns and cities in your home district?

A. Pretty well; yes, sir.

Q. And you know the district agents there?

A. Yes, sir.

Q. Did you, during the last two or three months, make an investigation as regards the wholesale situation in certain towns and cities and make reports to the Curtis Publishing Company?

A. Yes, sir.

Q. And those reports you made on the pink and white slips which appear there, signed by you; is that correct?

A. Yes.

Q. You investigated some cities outside of your own district?

A. Yes, sir.

Q. How many in all did you investigate?

A. Thirty-nine.

Q. And when you went to make the investigation, what did you do—what inquiries did you make?

A. Inquiries of different wholesalers of magazines and of newspapers.

Q. Did you interview your district agents at the different towns and district agents, other wholesalers and dealers?

A. Yes, sir.

Q. To find out who wholesaled the magazines and newspapers in each particular town—is that correct?

A. Yes, sir.

Q. Can you tell me, as a result of that investigation, in how many of the towns covered by you is there only one magazine wholesaler?

A. Twenty-three towns.

Q. How many of your agents wholesale only Curtis magazines?

A. Twenty-seven.

Q. And how many of those agents began the business of wholesaling magazines with the Curtis business?

A. Thirty-eight.

Q. In how many of your towns where the Curtis agents handle other magazines is that agent the only wholesaler of magazines?

A. Nine towns.

Q. Have you also gone over your reports to find out how many of your district agents do not handle newspapers wholesale?

A. Twenty-five of them.

Q. And when you made your investigation, I understand you excluded the American News Company and its branches and any agents acting solely for the "Pictorial Review" and the Crowell Publishing Company—is that correct?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You did not cover these thirty-nine towns prior to September, 1917?

A. Give me the question again, please.

Q. You did not work on these thirty-nine towns prior to September, 1917, did you?

A. Part of them I have.

Q. Only on part of them?

A. Yes, sir.

Q. Could you state what part you did not begin —what towns you did not work in prior to September, 1917?

A. I could figure it out.

Q. About how many towns would there be in that thirty-nine that you did not cover prior to September,

1917?

A. How many?

Q. Yes, approximately.

A. Thirty, I should imagine that I did not cover prior to that time.

Q. In these thirty towns would you be very familiar with the conditions as they existed in January, February and March of 1917?

A. No.

Q. In your capacity as road man for the Curtis Publishing Company you instruct boys, do you not, in the sales of the Curtis magazines?

A. Yes, sir.

Q. In your instructions to the boys, was anything ever said about handling any other magazines?

A. No, sir.

Q. Did you ever say anything to the agents of the Curtis Publishing Company about handling other magazines through boys?

A. Did I ever say anything about other agents handling them through boys?

Q. Did you ever say anything to agents handling Curtis publications about handling other magazines through boys?

A. No, sir.

Q. Did you ever receive any instructions from the Curtis Publishing Company to advise agents that while they are allowed to have certain magazines through retail news dealers, they cannot handle them through boys?

A. Repeat that question, please.

Q. In your five years as road man for the Curtis Publishing Company, have you ever received, from the home office, instructions to instruct the wholesale agent handling your magazines, that while he is permitted to handle certain magazines that retail news

dealers, he must not handle them through boys?

A. I have never seen any instructions to prohibit boys from selling anything that our agents are allowed to handle through boys or any other way.

Q. You never have?

A. No, sir.

MR. SPIESS: Please read the answer, Mr. Stenographer.

(The stenographer repeated the answer.)

EXAMINER MOORE: You received no instructions at all, then?

MR. SPIESS: That is what it amounts to, that he has never received any instructions at all.

By MR. SPIESS:

Q. Have you ever found an agent of the Curtis Publishing Company handling other magazines than Curtis magazines through boys?

A. In a small way; yes.

Q. Have you ever done anything about that?

A. Never.

Q. I now show you Commission's Exhibit No. 194, being Bulletin No. 265, from the Curtis Publishing Company, and ask you if you ever received that, or a copy of that bulletin?

A. I have read this before.

Q. Then do you wish to correct your statement that you have never received any instructions from the home office as to your agents handling other magazines through boys?

A. Well, I thought I answered that by saying "to whom we would give permission." That is what I put in there. That is what I intended to put in; that if the Curtis Publishing Company will allow any of our district agents to wholesale those magazines, they could wholesale them through whomsoever they pleased.

Q. Through boys?

A. Yes, sir.

Q. Those are your instructions?

A. Yes, sir.

Q. Have you ever received any instructions that "Collier's Weekly" could not be distributed through boys?

A. No, sir.

Q. Have you not received instructions to that effect?

A. I do not remember.

Q. Well, just read the last page of that bulletin and see if that will refresh your mind.

A. That is here.

Q. You wish to correct your statement?

A. I read it. I find so few of them that they do not amount to anything.

Q. Have you not received instructions that your wholesale agents must not sell the "Literary Digest" through boys?

A. If it is in here, I suppose I have.

Q. I do not know whether it is in there, but have you not received that instruction?

A. Reading what it says about "Literary Digest," it does not mention boys.

Q. Have you not received general instructions that your agents must not handle other magazines through boys—has not that been your understanding?

A. In a way, yes, sir.

Q. At Stevens Point, Wisconsin, your agent is French Campbell & Company, and they handle the Curtis group, the Hearst group, "Pictorial Review" —how long have they been handling "Pictorial Review"?

A. I cannot tell you how long they have been handling it.

Q. Have they been handling it since September?

A. He was handling it when I got there the first part of September.

Q. Are they still handling it?

A. French-Campbell is still handling it, yes, sir.

Q. What have you done about his handling "Pictorial Review"?

A. He is not our agent any more.

Q. Who is your agent now?

A. A boy.

Q. At the time he was handling it, he was the only wholesaler of magazines at Stevens Point?

A. Yes, sir.

Q. And why was he changed?

A. Because he was handling "Pictorial Review."

Q. How long has Rowland Carsey been your agent at Sheboygan?

A. I think some time in December.

Q. What year?

A. 1917.

Q. Who was your agent before that?

A. A man by the name of Fisher.

Q. Why did you change the agency there in December?

A. Because the previous agent was wholesaling "Pictorial Review."

Q. And at that time he was the only wholesaler in Sheboygan, was he not?

A. Yes, sir.

Q. Glenn Gary, at Rhinelander, Wisconsin—how long has he been your agent?

A. Ever since I have had that territory.

Q. Do you know how long he had it before you came there?

A. No, sir; not without referring to those notes. I do not know that it is on there either, but you can get that information.

Q. Do you know whether Mr. Reed ever handled the Curtis magazines?

A. I do not know.

Q. September, 1917, is the record of Mr. Gary's appointment. You said you did not know whether Mr. Reed ever handled the Curtis publications or not?

A. No, sir.

Q. Do you know who was the agent before Gary, for the Curtis Publishing Company?

A. It was a lady.

Q. It was not Reed?

A. No.

Q. Collie, at Warsaw—how long has he been your agent?

A. Quite a few years.

Q. Jesse T. Walker, at Portage, Wisconsin—how long has he been your agent?

A. I appointed him, but I could not tell you the date.

Q. You appointed him since September, 1917?

A. Yes, sir.

Q. Who was your agent before that?

A. Runner was the last name—I have forgotten his first name.

Q. Did the change of agents there have anything to do with the handling of other magazines?

A. No, sir.

Q. Maxwell, at Oshkosh—how long has he been your agent?

A. I cannot answer that. He was agent there prior to my going on the territory.

Q. Is this new territory of yours?

A. Yes, sir.

Q. Now, your agent at Neenah—how long has he been there?

A. A great many years.

Q. Has he taken on "Pictorial Review" or "Every Week"?

A. No, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. Marshfield, Wisconsin—how long has your agent been there?

A. I cannot say.

Q. Before you came on that territory?

A. Yes, sir.

By Mr. Daly:

Q. He has been there since you came on?

A. Yes, sir.

Q. And was there before?

A. Yes, sir.

By Mr. Spiess:

Q. How long has your present agent at Madison, Wisconsin, been there?

A. I appointed the present agent.

Q. When did you appoint him?

A. Since I took the territory.

Q. Since September, 1917?

A. Yes, sir.

Q. That is close enough. Who was your agent prior to that?

A. Mr. Netherwood.

Q. What became of him?

A. He is still there.

Q. Why did he change?

A. To get better service. It had nothing to do with any other magazines.

Q. Now, Bloom handles the Hearst group, the Munsey group, "Pictorial," "Collier's" and "Literary Digest"—he is the real big wholesaler of magazines there, is he not?

A. Yes, sir.

Q. In fact, until recently he was the only wholesaler there outside of the Curtis man, was he not?

A. Yes, sir.

Q. How long have you had Horton at La Crosse?

A. It has been a good many years.

Q. The Becker News Company handle your magazines, "Collier's," Hearst group and "Literary Digest"——

MR. WELCH: Where is this?

MR. SPIESS: Kenosha.

Q. Did the "Pictorial" ever try to get him to distribute magazines?

A. I do not know.

Q. Did you ever try to find out whether they had or not?

A. Not "Pictorial Review."

Q. Did you try to find out whether they handled any other magazines?

A. I do not get you. Repeat the question, please.

Q. Did you try to find out whether they ever handled any other magazines than those they handle now?

A. Did I ever try to find out if they handled any other magazines than the ones they handle now?

Q. Yes.

A. I gave a list of what they do handle.

Q. I asked you if you tried to find out if they tried to handle any other magazines?

A. Yes, sir.

Q. What magazines?

A. I tried to find out whether he was handling the Crowell group.

Q. Did he handle it?

A. He had been signed up to handle it.

Q. He was approached and wanted to handle it?

A. According to his story he did not.

Q. He signed up to handle it, did he not?

A. Yes, sir.

Q. He must have wanted to handle them if he signed up with them. Do you know why he did not handle them?

A. I know his explanation.

Q. What was his explanation?

A. To get rid of the fellow, and he cancelled it by the next mail.

Q. That is a good explanation. Do you know whether the Pictorial ever asked him to take on their magazines?

A. I do not know.

Q. Before the Pictorial got an agent there, the Becker News Company was the only wholesaler in that town?

A. There was another wholesaler a few months before.

Q. Who was that?

A. I do not know his name; he went out of business.

Q. Do you know what he was wholesaling?

A. No, sir.

Q. The real wholesaler there now, though, is the Becker News Company?

A. Yes, sir; absolutely.

Q. How long have you had Baker at Janesville, Wisconsin?

A. I appointed him.

Q. Who was the agent before him?

A. Barker.

Q. Why did you make the change?

A. He was wholesaling "Pictorial Review."

Q. He was the only wholesaler of magazines at Janesville at that time, was he not?

A. He was.

Q. Did you give him the choice of giving up "Pictorial Review" or the Curtis magazines?

A. I did not.

Q. Had he ever been given the choice of the two?

A. You mean directly?

Q. How long had he handled "Pictorial Review" before you changed him?

A. I cannot say.

Q. How long have you had Nelson at Beloit?

A. I appointed him since I have been in the territory.

Q. He is your agent at Beloit?

A. Yes, sir.

Q. Who was the agent before that?

A. Fred Camp—I believe that is his first name. His last name is Camp, anyway.

Q What became of him?

A. He dropped it.

Q. Who is E. A. Nelson?

A. He bought out Camp.

Q. He was handling the Curtis group, "Collier's" and "Literary Digest"?

A. Yes, sir.

Q. Was he handling "Pictorial Review"?

A. No, sir.

Q. Handling "Every Week"?

A. I do not think so.

Q. Was he approached to handle either one?

A. I do not know.

Q. And before John C. Nelson went in there, then Camp and his successors were the only wholesalers there—is that true?

A. Yes, sir.

Q. At Ashland, Wisconsin, your agent there has been there how long?

A. A great many years.

Q. Did he ever handle "Pictorial Review"?

A. No, sir.

Q. Was he asked to handle it?

A. No, sir.

Q. Was he asked to handle the Crowell group?

A. No.

Q. Is this one of the places where you have been in there only since September?

A. No; I used to make Ashland.

Q. Your agent at Appleton, Wisconsin,—how long has he been there now?

A. Several years.

Q. Was he ever approached to handle the Crowell group or the "Pictorial Review"?

A. I do not know.

Q. Sagaman, at Green Bay—how long has he been your agent?

A. Several years.

Q. Did he ever handle any other magazines than yours?

A. No, sir.

Q. The agent at Fond du Lac—how long has he been there?

A. Several years.

Q. Did he ever handle any other magazines?

A. No, sir.

Q. When you went on this territory to make this investigation, did you not endeavor to find out who had been approached by the Crowell Company or the Pictorial Review Company to handle their magazines?

A. No, sir.

Q. When you found a man handling the "Pictorial Review" and Crowell group, did you ask him when he got them?

A. Yes—you mean our district agents, when he was handling them?

MR. MILBURN: Whom on earth could he mean, Mr. Nelson? Just think about that.

MR. SPIESS: I did not mean the district agent at all; it is just the reverse of that. You stated you made your investigation by going to some wholesalers and retailers?

A. Yes, sir.

By Mr. Spiess:

Q. When you went to the retailer and saw the "Pictorial Review" and "Every Week" and the "Woman's Home Companion," did you not inquire where they were getting them?

A. Yes, sir.

Q. And in that way you did find out who was handling "Pictorial" and "Every Week"?

A. Yes, sir.

Q. Did you do that in every town?

A. Yes, sir.

Q. What was your purpose in making that inquiry?

A. To find out who the wholesalers were of the different magazines.

Q. Did you ask about all magazines?

A. Yes, sir; in a great many instances.

Q. Not in all instances, did you?

A. I found out who was wholesaling——

Q. When you made this investigation, did you not try to find out particularly who was handling "Pictorial Review" and Crowell publications?

A. Absolutely.

Re-Direct Examination.

By Mr. Milburn:

Q. You found out all the information you got on the pink and white slips?

A. Yes, sir.

Q. And asked questions to find that out?

A. Yes, sir.

Q. Those pink and white slips included almost every magazine there is, from one place to another?

A. Yes, sir.

Q. You found out who handled the "Hearst's,"

"Pictorial Review," and any other group—is that correct?

A. Yes, sir.

Q. And you reported back?

A. Yes, sir.

Q. You asked about Madison. Is Mr. Netherwood still in the wholesale business?

A. Not in the magazine wholesale business.

Q. Not magazines?

A. No, sir.

Q. You said you had changed your agency at Stevens Point?

A. Yes, sir.

Q. Why was that changed?

A. Because he was selling "Pictorial Review."

Q. And there is another wholesaler there who is the Curtis agent?

A. Yes, sir.

Q. French-Campbell, before the change, was the only wholesaler there?

A. Yes, sir.

Q. And he handled the Curtis, "Hearst," "Collier's" and "Pictorial"?

A. Yes, sir.

Q. And you left him and appointed another agent?

A. Yes, sir.

Q. Your agent there now handles only the Curtis publications, does he not?

A. Yes, sir.

Q. At Chippewa Falls, M. A. Phillips is your district agent?

A. Yes, sir.

Q. And is there another wholesaler there?

A. Yes, sir.

Q. And he wholesales magazines?

A. Yes, sir.

Q. How many men in Chippewa Falls wholesale newspapers?

A. One.

Q. What is his name?

A. Furman.

Q. He also wholesales magazines, does he not?

A. Yes, sir.

Q. Was this one of the towns of your original district—are you familiar with this town?

A. Yes, sir.

Q. How long has Phillips been Curtis agent—do you know about how long?

A. About three or four years.

Q. In Green Bay, Wisconsin, Mr. Sagaman is the Curtis wholesaler there?

A. Yes, sir.

Q. Is there any other wholesaler there?

A. Yes, sir.

Q. Who is he?

A. Mr. Boss.

Q. Do you know how many newspaper wholesalers there are in Green Bay?

A. Just Mr. Boss.

Q. He is the big wholesaler?

A. Yes, sir; he is the big wholesaler.

Q. At Hudson, who is your Curtis agent?

A. At Hudson?

Q. Yes.

A. Harding.

Q. What does he handle?

A. Just the Curtis publications.

Q. Is there another magazine wholesaler there?

A. No, sir.

Q. So that the Curtis Company has the only publishing company that maintains a wholesaler for magazines in that town—is that correct?

A. Yes, sir.

Q. Is there another newspaper wholesaler there?

A. Yes, sir.

Q. So, Harding is the only wholesaler, and wholesales Curtis publications?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. In Jamesville, who is the Curtis agent there?

A. Mr. Baker.

Q. Is there another magazine wholesaler there?

A. Yes, sir.

Q. What is his name?

A. Barker.

Q. What does he wholesale?

A. He wholesales "Pictorial," the Hearst group and several others.

Q. Does he wholesale the Warner publications?

A. Yes, sir.

Q. And "Collier's"?

A. Yes, sir.

Q. And who is the newspaper wholesaler there?

A. Mr. Barker.

Q. Is he the principal wholesaler there?

A. The principal wholesaler.

Q. The biggest wholesaler in the place?

A. Yes, sir.

Q. In La Crosse, who is the Curtis agent there?

A. T. P. Horton.

Q. Is there another magazine wholesaler there?

A. Yes, sir; Mr. Levy.

Q. He handles the Hearst group, Warner group and "Literary Digest" among other magazines?

A. Yes, sir.

Q. Who is the newspaper wholesaler in La Crosse?

A. Levy is the wholesaler.

Q. In Madison, who is the big magazine wholesaler?

A. Bloom.

Q. "Every Week" has a representative?

A. Yes, sir.

Q. Who is the Curtis agent?

A. Mr. Netzkie.

Q. Who is the big newspaper wholesaler there?

A. Bloom.

Q. Is he the only one?

A. Yes, sir.

Q. What does he handle by way of newspapers?

A. The Chicago and Milwaukee papers.

Q. At Marshfield, who is the Curtis agent?

A. Mr. Gransh.

Q. Is there another magazine wholesaler there?

A. Yes, sir; at the time this investigation was made there was. Since then I have changed the agency.

Q. Who is the other name?

A. James B. Lorge.

Q. Both handle newspapers?

A. Yes, sir; since then I have changed the agency in Marshfield.

Q. From Gransh to somebody else?

A. To a boy.

Q. There are now three?

A. No, Mr. Lorge is out of the business.

Q. Does the boy handle any newspapers there at wholesale?

A. No, sir.

Q. Who does the newspaper wholesale business then?

A. Mr. Gransh has bought out Lorge.

Q. He is now the newspaper wholesaler?

A. Yes, sir.

Q. And magazine wholesaler?

A. Yes, sir.

Q. And you left him for a boy?

A. Yes, sir.

Q. In Oshkosh, who is the district agent for the Curtis Publishing Company?

A. Maxwell.

Q. Is there another magazine wholesaler there?

A. Yes, sir.

Q. What is the name of the Curtis agent?

A. Mr. Maxwell.

Q. Is there another magazine wholesaler there?

A. Yes, sir.

Q. What is the name?

A. Haverty.

Q. What does he handle?

A. The Hearst group and "Collier's."

Q. Is there a newspaper wholesaler there?

A. Yes, sir.

Q. What is his name?

A. Haverty.

Q. Is he the only one?

A. Yes, sir; the only one.

Q. Who is the biggest wholesaler of magazines of newspapers in the town?

A. Haverty.

Q. In Sheboygan, what is the name of your agent there?

A. Harsh.

Q. What business is he in?

A. He is a school boy.

Q. Does he handle anything else but Curtis magazines?

A. No, sir.

Q. Who is the main magazine wholesaler there?

A. Sleishmyer & Fisher.

Q. Do they also wholesale the Chicago and Milwaukee papers?

A. Yes, sir.

Q. Are they the only newspaper wholesalers there?

A. Yes, sir.

Q. They are the principal magazine wholesalers too, are they not?

A. Yes, sir.

Q. In Wausau, who is the Curtis agent?

A. Collie.

Q. What business is he in?

A. Book store.

Q. Is that a town covered by you that you are familiar with?

A. Yes, sir.

Q. How long have you been there?

A. A great many years.

Q. Is there another magazine wholesaler there?

A. Sierck.

Q. Is he the only newspaper wholesaler there?

A. Yes, sir.

Q. And handles what papers?

A. Chicago and Milwaukee papers.

Q. At Fond du Lac, who is the Curtis agent?

A. Mr. Breesler.

Q. There is another magazine wholesaler there, is there not?

A. Yes, sir.

Q. What is his name?

A. Burnty.

Q. How many newspaper wholesalers are there there?

A. Mr. Burnty is the only one.

Q. What does he handle?

A. The Chicago and Milwaukee papers.

Q. You testified when asked by Mr. Spiess in reference to boys handling other magazines—magazines other than Curtis magazines—you have been working five years as the Curtis roadman?

A. Yes, sir.

Q. And you are familiar with your own district that you cover?

A. Yes, sir.

Q. Was it a frequent occurrence or what was the proportion in which one of the boys we call the Curtis boys, handled other magazines? I want you to describe that situation.

A. Why, it is so few that I never paid any attention to it. The boys do not sell other magazines.

Q. You know, as the result of your experience with the company, do you not, that when permission is given by the company to handle another magazine, that they expect that magazine to be handled by the agent with the dealers and not through the boys?

A. Yes, sir.

Q. You gave us to understand before that magazines could, if they got permission, be handled through boys—was that wrong?

A. Yes, sir; it is wrong. They are not supposed to use the Curtis boys.

Q. I thought you were mistaken and that is the reason I brought it up. At Rhinelander, who is the Curtis agent?

A. Glenn Green.

Q. There is another magazine wholesaler there?

A. Yes, sir.

Q. Who handles newspapers?

A. Mr. Reed.

Q. I do not know that you gave his name—is he the other magazine wholesaler?

A. Yes, sir.

Q. What does he handle?

A. Hearst and "Collier's."

By MR. WELCH:

Q. What newspapers?

A. The Chicago and Milwaukee papers.

By MR. MILBURN:

Q. Does the same situation apply to Watertown, Wisconsin; that is, there is a Curtis agent and another magazine wholesaler who wholesales newspapers—is that correct?

A. Yes, sir.

Q. What does the other magazine wholesaler handle in the way of newspapers?

A. Chicago and Milwaukee papers.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. Are your agents allowed to distribute any other magazines through boys?

A. If a boy has a——

MR. SPIESS: That does not answer my question.

MR. MILBURN: Let him answer.

THE WITNESS: Yes, it answers you. If a boy has one of his "Post" customers or other magazine customers ask for a certain magazine and he goes to the agent, he is allowed to take it out. He is allowed to take that magazine.

By MR. SPIESS:

Q. You are speaking about the Curtis boys?

A. Yes, sir.

Q. Are your agents allowed to go out and get other boys who are not Curtis boys, to distribute magazines through those boys?

A. Are they allowed to go out and get news boys to distribute magazines?

Q. Yes.

A. I suppose so.

Q. Do you know?

A. I have never seen them try it.

Q. Have you any instructions about it from the company?

A. No, sir; not about getting a new force to distribute magazines.

Q. Have you had any instructions from your company as to what to do in case an agent started to get boys to handle "Collier's Weekly"—I do not mean Curtis boys; I mean just boys. Have you had any instructions from the company as to that situation?

A. I think not; it never came up.

Q. Do you know when this change of the price of "Posts" went into effect?

A. Explain what you mean by change of price.

Q. Has there not been a change of price in "The Saturday Evening Post" to the dealers and to the boys?

A. There has been a change of price to the dealers.

Q. When did that go into effect?

A. I think about March 1st.

Q. Of this year?

A. Yes, sir.

Q. Now, are any of these agents in your territory guaranteed a certain sum for distributing Curtis publications?

A. No.

MR. MILBURN: May I ask that that question be read?

(The stenographer repeated the question.)

MR. MILBURN: What was his answer?

(The stenographer repeated the answer.)

MRS. G. WHITTLESEY was called as a witness on behalf of respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Mrs. G. Whittlesey.

Q. Where do you live, Mrs. Whittlesey?

A. St. Louis.

Q. Are you district agent for a portion of St. Louis?

A. I am.

Q. Of the Curtis Publishing Company?

A. I am.

Q. In what section of St. Louis?

A. Southwest.

Q. How long have you been the agent?

A. Since—under contract since December, 1916, and from September, 1916, to December, 1916, I was not under contract.

Q. You are now under contract, are you?

A. I am.

Q. You are still under the old contract?

A. I am.

Q. Do you wholesale any other magazines than the Curtis publications?

A. No.

Q. Do you wholesale any newspapers at all?

A. No.

Q. Do you retail any other magazines or newspapers?

A. No.

Q. Do you supply any dealers with magazines?

A. No.

Q. You circulate the magazines through boys only, as I understand.

A. I do.

Q. How many boys do you have?

A. Between thirty and thirty-five.

Q. Do those boys have regular customers, or how?

A. They all have regular customers.

Q. And to what class of customers are they—what class of boys are they?

A. Well, all school boys, no newsboys.

Q. Do you know generally the parents of the boys?

A. Oh, yes.

Q. And when a boy comes to you do you make a point of taking it up with his parents?

A. Yes, sir.

Q. Do you ever talk to the teachers of the boys about their work?

A. Yes, sir.

Q. Do you ever coach the boys and instruct them in the proper methods of salesmanship?

A. Every week.

Q. What do you do, have meetings of the boys?

A. Yes, we have the Ten Club meetings, and then as the boys come for their papers I will instruct them in selling and coach them on, urge them on.

Q. Are there any pamphlets or booklets issued for boys?

A. Yes, sir. The Curtis Publishing Company issues a booklet, "How to Sell," and the principal of the boys' school said it was one of the best pamphlets put out for a boy, and he said men themselves could learn a great deal from it. And the boys have gained a great number of sales through this little book.

Q. Do you undertake to teach them the principles of selling and instruct them with reference to that book?

A. Oh, yes, that is our aim.

Q. Have you any League members?

A. Three, right now

Q. Any expert salesmen?

A. Two.

Q. Is this organization of boys that you have fairly permanent?

A. No, these boys are new boys right now. I had a whole set of high school boys.

Q. I see.

A. And they have graduated, and I have a new set now.

Q. Yes. Now, how long was this former set that you had with you, what is the general rule?

A. Well, I don't know.

Q. Is it a question of months or years?

A. Well, I had them about two years—no, not two years, about a year and a half, and they had been selling before that.

Q. And then they graduated?

A. They have graduated from the high school.

Q. Given up the Curtis business?

A. Some of them did. I have three.

Q. How old are the boys that you have now, the thirty to thirty-five boys, what is their age?

A. They range from about ten to sixteen.

Q. The youngest boy you have is about ten?

A. About ten.

Q. And the oldest sixteen?

A. I should judge.

Q. Do these boys sell any other magazines?

A. No.

Q. Or newspapers?

A. Not at all.

Q. How often do you see them, did you say?

A. Every week.

Q. Every week you have meetings with them?

A. Oh, yes.

Q. Were you asked or approached by the "Pictorial Review" to take on the wholesaling of "Pictorial Review"?

A. Yes, in August, 1917, I was asked to—a man came to the house. He told me he was representing "Pictorial Review," and asked me if I would take it on. I said no, that I was not interested and I hadn't the time. Well, he said it would not take any more time than I was devoting right now to it, that I had the organization and could do it while I was distributing the other papers.

Q. Did he mention the character of your organization in any way?

A. Yes. He said they were a fine class of boys and they could sell the papers while they were selling the other papers.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Mrs. Whittlesey, are you sure this is the "Pictorial Review" you are speaking of or the Crowell?

A. Well, doesn't the "Pictorial Review"—Why, no, it was the "Pictorial Review" people.

Q. "Pictorial Review" people. Did he give you his name?

A. Yes, but I wasn't interested, unfortunately.

Q. Do you see that gentleman in this room?

A. No, but he looks a great deal like the man with the blue suit on (indicating). It was not this man.

Q. It was not this man?

A. No. He was tall and slender. I thought when I first came in that it was he, but it is not.

MR. WELCH: Who is the man with the blue suit?

THE WITNESS: The man sitting back.

MR. SPIESS: That is Mr. Rankin.

MR. WELCH: Pointing to Mr. Rankin.

THE WITNESS: I know it was not he.

MR. WELCH: I understand.

THE WITNESS: But it looked a great deal like him.

By MR. SPIESS:

Q. How many magazines does this little ten-year-old boy sell?

A. He sells fifteen "Posts" and three "Country Gentleman," and I should judge about— Oh, wait a minute. I have a new boy that has just started in that is selling eighty. I forgot him.

MR. WELCH: How old is he?

THE WITNESS: He is ten years, eleven years old.

MR. WELCH: Go ahead.

By MR. SPIESS:

Q. Now I will ask you my question: How many magazines does this little ten-year-old boy sell?

A. Well, about fifteen "Posts," three "Country Gentleman," and I should judge about ten or twelve "Journals."

Q. Do you know what grade he is in?

A. What grade at school?

Q. Yes.

A. Well, I should judge about the——

Q. No, I just want to know whether you know what grade.

A. No, I don't know.

Q. You don't know?

A. No.

Q. Have you ever talked to his mother about selling these?

A. Yes; I have talked to all the mothers.

Q. Do you ever see his school reports?

A. Not of a boy that young.

Q. You would not see his reports, would you?

A. No.

Q. Well, how would you know, then, whether he was getting along all right in the school?

A. Well, it is one of the principles of the Curtis Publishing Company that no boy can neglect his school work to sell papers out——

Q. Yes, but how would you know it if he was?

A. Well, the mother would make him quit selling papers.

Q. Oh, his mother would?

A. Why, I should judge she would.

Q. Do you know whether the man who called on you to handle these other magazines was named Burley?

A. I could not recall his name. I was not interested in it and I could not take it on, and I was not interested.

Q. Did he tell you it was a weekly magazine or a monthly magazine?

A. A monthly magazine.

Q. He did not say anything about any other magazines?

A. No.

Q. Are you under the new contract?

A. No.

Q. Have you been approached to make the new contract?

A. Not yet.

MR. SPIESS: That is all.

MR. WELCH: That is all, Mrs. Whittlesey.

(Witness excused.)

JACOB BARON, called as a witness on behalf of the respondent, was first duly sworn by the Examiner and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Jacob Baron.

Q. Where do you live, Mr. Baron?

A. St. Louis.

Q. And what is your business?

A. Retail, wholesale and retail magazines and newspapers.

Q. Have you a firm, or are you in business alone?

A. Firm name of Baron & Molasky, partnership.

Q. You are one of the firm of Baron & Molasky?

A. Yes, sir.

Q. Are Baron & Molasky district agents for the Curtis Publishing Company?

A. Yes, sir.

Q. Is the contract in the name of the firm?

A. Yes, sir.

Q. What was your business before you formed this firm?

A. Well, before we formed the firm, we were each separate district agents, and before we became district agents we did not handle any magazines at all. We were newsboys on the corner.

Q. You were, you say, a newsboy or "Post" boy?

A. A newsboy, and I handled the "Post" at the same time. I sold them five cents a copy.

Q. And was your partner, Mr. Molasky, the same?

A. Same position.

Q. And then you formed this partnership in what year?

A. It was about 1911, if I am not mistaken.

Q. And you say prior to that time you had had a district agency?

A. For about two years.

Q. A contract, and so had Mr. Molasky?

A. Yes, sir.

Q. That is correct?

A. Yes, sir.

Q. What was the date that you formed this partnership?

A. 1911 and 1912, something like that.

Q. What was the first magazine that you and your partner handled wholesale?

A. "Saturday Evening Post"—Curtis publications.

Q. You began with "The Saturday Evening Post"?

A. Yes, sir.

Q. Is that a fact?

A. Yes, sir.

Q. And then you took on the other publications?

A. Yes, sir.

Q. As one of the wholesale agents?

A. Yes, sir.

Q. Did you handle any newspapers wholesale at the time you took on the Curtis publications?

A. No, sir.

Q. And any other magazines wholesale?

A. No, sir.

Q. What are you wholesaling now?

A. Why, we wholesale pretty near everything but "Pictorial Review"; that is, those that have broken away from the American News Company.

Q. Just name them. "Munsey's"?

A. We handle the Munsey group, the Hearst group, the Warner publications, Motion Picture publications, "Collier's," "Literary Digest," and the newspapers—Chicago papers and St. Louis.

Q. You have taken those on wholesale since you began with the Curtis publications?

A. Yes, sir.

Q. Now, how many boys do you have distributing the Curtis publications?

A. Well, I have about twenty-five that you might call Curtis boys that handle the three Curtis publications alone. And then we have about sixty newsboys, that is, that sell newspapers and magazines and handle other magazines.

MR. DALY: Sixteen?

THE WITNESS: About sixty.

By MR. WELCH:

Q. Sixty. You have twenty-five boys that you call Curtis boys?

A. Yes, sir.

Q. Who handle nothing but the Curtis publications?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Now, what are those boys; what is the character of them?

A. Why, they are school boys. Some of them work and sell "Saturday Evening Posts." Would you include that as Curtis?

MR. DALY: I can't hear you.

THE WITNESS: I say would you include those as Curtis boys? I say they work but they are handling "Saturday Evening Posts" and "Country Gentleman" and "Journals" alone.

By MR. WELCH:

Q. Yes, if they sell only Curtis publications.

A. Including school boys with working boys.

Q. How do you maintain this force of Curtis boys; does the Curtis Company and the traveling roadmen assist you in any way?

A. Well, they do with the few that we have of twenty-five or so.

Q. Yes.

A. They call their attention to meetings, and so forth, in conjunction with Mrs. Whittlesey and Mrs. Sturdevant.

Q. You work in conjunction with Mrs. Sturdevant and Mrs. Whittlesey, who have testified here?

A. With the Curtis boys.

Q. With respect to the twenty-five Curtis boys?

A. Yes, sir.

Q. Now, what bonuses or prizes have you or any of these boys received?

A. The boys have received several prizes in vouchers and—— That is, I am talking of the boys as a whole.

Q. Yes.

A. Including the others as well.

Q. You mean the twenty-five Curtis?

A. Twenty-five, and the sixty of the others, they have received prizes, vouchers, and cash, too.

Q. What have you and your firm received?

A. In our firm I guess we received from bonuses—would you call that a bonus? We received a certain bonus according to our contract. That is, providing we sell above a certain amount of "Saturday Evening Posts," "Country Gentleman" and "Ladies' Home Journals," we receive a bonus of a quarter of a cent.

Q. And you also receive a special salary, you have a special salary?

A. We have a special salary; yes, sir.

Q. And what is that?

A. Based on a certain quota of sales.

Q. How much does that amount to?

A. It amounts to fourteen dollars a week.

Q. Fourteen dollars a week?

A. Yes, sir.

Q. How much does your full bonus that you have just referred to and your salary together amount to?

A. Well, that varies. Sometimes. It is probably an average of about thirty dollars.

Q. Thirty dollars a week?

A. Yes, sir.

Q. That is, in addition to the commissions that you receive?

A. Yes, sir.

Q. As agents for the sale of the Curtis publications?

A. Yes, sir.

Q. Now, how many "Posts" do you handle?

A. We are drawing at present eight thousand eight hundred.

Q. And how many "Journals"?

A. "Journals;" three thousand nine hundred.

Q. Three thousand nine hundred?

A. Yes, sir.

Q. And how many "Country Gentleman"?

A. Well, the last order was thirteen hundred and fifty.

Q. Were you asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. Who asked you?

A. Mr. Rankin.

Q. Mr. Rankin is right here in court, isn't he?

A. Yes, sir.

Q. What happened, what did Mr. Rankin say?

A. Mr. Rankin asked me—came down one day and told us, he says, "Boys, we have broke away from 'Pictorial Review.'"

Q. Broke away from what?

A. I mean from the American News Company, "and we would like for you boys," he says—"Here is a chance for your boys to handle it." It was Saturday, I think. He says, "I will be down Monday morning and try to make definite arrangements with you." And I think previous to that Mr. Mackinnon asked us to handle "Pictorial Review," and we told him we would accept it. And then before we signed the agreement Mr. Rankin came down again Monday, before we signed the agreement, and we thought it wise to wire the Curtis Publishing Company. And Mr. Rankin wired the Curtis Publishing Company—we wired the Curtis Publishing Company with Mr. Rankin, and Mr. Douglas wired us back that we could either handle "Pictorial Review" or terminate their contract.

Q. When did Mr. Rankin see you, what day was it?

A. I think it was on Saturday.

Q. When did you hear from Mr. Douglas notifying you that you——

A. When we wired Mr. Douglas that "Pictorial Review" had offered us the agency, we received Mr. Douglas' wire.

Q. When did you see Mr. Rankin after that Saturday to tell him?

A. Monday.

Q. The following Monday you told him that you would not handle the "Pictorial Review"?

A. We wired that same morning whether we could accept the "Pictorial Review" agency, and it was not sanctioned.

Q. Did Rankin say anything about any other agents handling "Pictorial Review"?

A. Yes, sir; I believe that a fellow by the name of Nelson, in Omaha, handled it.

Q. Eric Nelson?

A. Yes, sir; and Katze.

Q. Katze, at where?

A. Kansas City, that we could.

Q. Did he say anything about the Curtis having consented to their handling it?

A. He said they were handling it.

Q. He said they were handling it. What happened then, did you refer Rankin to anybody?

A. Well, we wired then. After we could not handle it, I referred him to Schuchardt Brothers.

Q. Who is that?

A. They are retailers, and also happen to be relations of mine, too. I regret it now.

Q. Did you ever have any further conversation with Rankin about your brother-in-law handling it—"Pictorial Review"?

A. Well, later on I found there was a rumor we were handling "Pictorial Review" through our brother-in-law, and it was not true. Mr. Smith, with the Curtis Publishing Company, mentioned that to us and asked us—I asked him where he got that idea. He said it was mentioned to somebody, and Mr. Marks wrote the Curtis Publishing Company that we were handling it through Schuchardt Brothers. I told Mr. Smith that he had no right to make that remark to me, because I didn't do any underhand method, told him I always dealt plain and above board.

Q. Who was Mr. Smith?

A. Curtis representative.

Q. Who did you tell that to, Mr. Rankin or Mr. Smith?

A. I told that to Mr. Rankin, that the rumor was that he reported that we were handling it through Schuchardt Brothers.

Q. That Mr. Rankin had reported that?

A. Yes, sir; that the rumor was that Mr. Rankin —that he reported that we were selling that way.

Q. I see.

A. And I told him we were not. I think Mr. Rankin told us that—I think someone told us that Eric Nelson of Omaha mentioned this to Mr. Marks, and Mr. Marks reported it to the office.

Q. Mr. Marks, of the Company?

A. Yes. It has several times come to us in an unfavorable light with the Curtis Company, which I regret. I don't like to treat a publisher unfair.

Q. All right. As a matter of fact, you never sold a copy of "Pictorial Review," did you?

A. Never did.

Q. You never gave an order for a copy of "Pictorial Review" to sell at wholesale, did you?

A. I knew I could not handle it, and there was no use in giving any.

Q. Are you under the new contract, Mr. Baron?

A. Yes, sir.

Q. Now, before you and Mr. Molasky became partners——

A. Yes, sir.

Q. Did you get any prizes or premiums or bonuses of any sort as district agents that amounted——

A. I got in addition to my commissions—I got personally—I got about three hundred and fifty dollars, and Mr. Molasky got pretty near a thousand dollars cash.

Q. That was prior to 1911?

A. Prior to our going together, yes.

Q. When you were handling nothing but the Curtis publications?

A. Yes, sir.

Q. And before you had taken on any magazines or newspapers?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When did Mr. Rankin see you about handling "Pictorial Review"?

A. I think about the time they broke away from the News Company.

Q. Do you know when?

A. No. I say it was sometime, I suppose, in February.

Q. Do you know when they broke away from the American News Company?

A. Sometime in February, I think.

Q. You say Mr. Rankin told you that Mr. Eric Nelson——

A. Yes, sir.

Q. ——at that time was handling "Pictorial Review"?

A. Eric Nelson, of Omaha, and Harry Katze, of Kansas City.

Q. Don't you know, as a matter of fact, at the time that Mr. Rankin was talking to you that the Pictorial had been distributing its magazines through independent wholesalers?

A. Do I know that?

Q. Yes.

A. That they had already broken away?

Q. I thought you knew.

A. The first time he approached us as to the agency——

Q. Didn't you know when the Pictorial broke away from the American News Company?

A. Yes.

Q. When?

A. Well, about the first part of February, I guess.

Q. Was that February, 1916?

A. Somewhere in there, about there, between the 5th and the 10th.

Q. As a matter of fact, didn't you take up with the Curtis Company the handling of "Pictorial Review" before they broke away from the American News Company?

A. Did I take it up? No, never did.

Q. I show you a telegram from Mr. Douglas, dated February 9, and ask you if you did not receive that (handing paper to witness)?

A. Yes, sir.

Q. Now, what was the occasion for that telegram?

A. It was when we wired whether we could accept.

Q. When did you wire?

A. Well, I guess when Mr. Rankin approached us.

Q. Was that before February 9 or afterwards?

A. Well, I guess it must have been before that.

Q. And the "Pictorial Review" broke away on February 10, isn't that true?

A. I guess it must have been.

Q. So, if Mr. Rankin told you that Eric Nelson was then wholesaling "Pictorial Review" he told you something that was not true, didn't he?

A. I guess it must have been; yes, sir.

Q. And you knew it couldn't be true, didn't you?

A. Well, I didn't know.

Q. You knew if they broke on the 10th there couldn't anybody be handling it on the 9th of February?

A. I don't know that they broke on the 10th or when they broke. He told me they were ready to break away. He said they broke away.

Q. Didn't he tell you they were going to break on the May issue?

A. No.

Q. There wasn't anything said to you about the May issue at all was there?

A. No; he told us to give him an order.

Q. For what?

A. For "Pictorial Review." We didn't give him any.

Q. For what issue?

A. I don't know.

Q. He didn't ask you for an order for the February issue, did he?

A. I don't know when it was.

Q. You are sure, though, that he did tell you that Eric Nelson had begun——

A. Yes, sir.

Q. ——handling "Pictorial Review"?

A. He said they were handling "Pictorial Review," that they had sanctioned to handle it and that we would be glad to handle it.

MR. SPIESS: I will offer that telegram in evidence.

MR. WELCH: Let me see it, please.

(Telegram handed to Mr. Welch.)

(No objection.)

EXAMINER MOORE: The telegram may be received in evidence without objection.

(Said telegram so offered was received in evidence, was marked by the stenographer, "Respondent's Exhibit No. 208," and is as follows:)

RESPONDENT'S EXHIBIT No. 208.

(On Postal Telegraph Night Lettergram form:)

"597 Ch JX 21 NL. 7 30 PM
Ch Philadelphia P Feb 9-17
Baron and Molasky
Pierce Bldg St Louis Mo.

"If you *weere* to undertake wholesaleing periodical mentioned we should wish to terminate arrangements by which you are now representing us.

M. E. DOUGLAS."

By Mr. Spiess:

Q. Now, you were asked to handle "Every Week"?

A. Yes, sir.

Q. Sometime in February, 1916, were you not?

A. Yes, sir. We handled it.

Q. You did handle it?

A. Yes, sir.

Q. Are you handling it yet?

A. No, sir.

Q. How long did you handle it?

A. I guess we must have handled it about two or three months.

Q. After February?

A. Yes, sir. I cannot remember exactly the length of time.

Q. How many copies of "Every Week" did you handle?

A. If I am not mistaken, around six hundred or so.

Q. Did you begin in February, 1916, to handle it?

A. I guess it must have been. I am not exactly sure. I know we handled it.

Q. You handled it up until sometime in April?

A. About two or three months.

Q. Did you write Mr. Douglas that you were handling "Every Week"?

A. No. They had a branch manager in St. Louis at that time, and we knew, I think, that other agents were handling it at the same time it was offered to us.

Q. Yes. But I am asking you now did you write and tell Mr. Douglas you were handling "Every Week"?

A. No, sir.

Q. Did you write him in February that you had been approached to take over "Every Week"?

A. I don't exactly remember.

Q. You don't remember?

A. If ever I did ask him for a magazine he would sanction our handling it to news dealers only.

Q. Just look at that (handing a paper to the witness).

A. This is February 9, 1916.

Q. Yes, 1916 that is exactly what I asked you.

A. It has been so long ago that my mind is not exactly clear.

Q. Now, as a matter of fact, isn't that date February 9, 1916—shouldn't it be 1917?

A. It might be.

Q. But shouldn't it be, don't you know?

A. 1917 would be a year—two——

Q. You know it is not over two years ago, don't you?

A. No, sir.

Q. And, as a matter of fact, the time you wrote this letter——

By MR. WELCH: Now, one minute. If the letter says 1916, Mr. Spiess, I object to going into an examination to show that it means 1917.

MR. SPIESS: There is your answer (handing a paper to Mr. Welch).

MR. WELCH: I just wanted to see.

MR. SPIESS: I am asking him if it was not 1917.

MR. WELCH: Now, I object to this on the ground that these two letters refer to entirely different occasions. One letter refers to receipt of a letter of the 5th, whereas in 1916, written on February 9th, the letter that it is supposed to be an answer to is February 15, 1917.

MR. SPIESS: I have not introduced them.

MR. WELCH: I object to this line of examination of letters without putting them in evidence.

MR. SPIESS: If I recall here, the letter says February 9th, and the reply of the Curtis Company says, "In reply to your letter dated Febru-

ary 9th." I cannot see wherein you get that February 5th—February 9th. And they were both concerning "Every Week." You look them over again.

MR. WELCH: They have different years, Mr. Spiess.

MR. SPIESS: I am trying to refresh this man's memory, if it was not a little over a year ago instead of a little over two years ago, and he seems to think it was 1917.

THE WITNESS: It has been so long ago I don't exactly remember. We handled it all right.

MR. WELCH: I don't care. Ask him when he first took it on.

By MR. SPIESS:

Q. When did you first take on "Every Week"?

A. It has been probably a year or two ago, I don't exactly remember.

Q. Has it been as much as two years ago?

A. It might have been.

Q. What?

A. It might have been, I don't know.

Q. Don't you know?

By MR. DALY:

Q. Don't you know, Mr. Baron, that one letter was in reply to the other? Look at these two letters (handing papers to the witness), those letters are connected, aren't they?

MR. WELCH: It doesn't make a bit of difference. I just want to get it straight, that is all.

MR. MILBURN: I think Mr. Spiess is right about it. We can bring that out in the testimony.

By MR. SPIESS:

Q. Isn't that letter of the Curtis Company in answer to this letter of yours here? (Indicating.)

THE WITNESS: I cannot recollect.

MR. DALY: Look at them.

THE WITNESS: I know it was not sanctioned. This letter told us not to handle it.

By MR. SPIESS:

Q. Told you not to handle it?

A. Yes, sir.

Q. Now, after you received the letter from the Curtis Company dated February 15, 1917——

A. Yes, sir.

Q. ——objecting to your handling "Every Week," didn't you continue to handle it?

A. No, sir, gave it up.

Q. What year, then, did you handle the "Every Week" for three months?

A. About—I guess it must have been 1917 or 1916, I don't exactly remember.

Q. You don't know. Well, in 1917 didn't you take it up with the Curtis Company whether you could handle "Every Week"?

A. Well, I guess it must have, I don't know.

Q. Did you take it up in 1916 whether you could handle it?

A. I know we did not take it up at first.

Q. You did not take it up both times, did you?

A. No, sir.

Q. Well, then, if you did not take it up both times, what letter does this refer to then when it says, "Your letter of February 9th"—did they wait one year before they answered it?

A. No, it might be a typographical error.

Q. Don't you know that that letter is in answer to this, Mr. Baron (indicating)?

A. I cannot remember, that is all.

Q. You can't answer?

A. I can't remember. It has been so long ago. I know it was not sanctioned.

MR. SPIESS: I offer these two letters in evidence.

MR. MILBURN: No objection. I would like to have them in to show there is nothing answered there.

MR. SPIESS: We will prove the dates. I just offer the two letters in evidence.

MR. MILBURN: I make no dispute about the phraseology.

MR. SPIESS: The records of the Curtis Company will show when Mr. Molasky handled it. I offer these in evidence.

EXAMINER MOORE: Any objections?

MR. WELCH: No objection.

EXAMINER MOORE: They may be received in evidence without objection.

(Said letters so offered and received in evidence were marked by the stenographer "Respondent's Exhibit No. 209" and "Respondent's Exhibit No. 210," and are as follows):

RESPONDENT'S EXHIBIT No. 209.

"Feb. 9, 1916.
(The figure "7" written in pencil over the figure "6" in "1916")

Mr. M. E. Douglas, Sales Mgr.,
Curtis Publishing Co.,
Philadelphia, Pa.

Dear Sir:

Yours of the 5th received and we assure you that nothing will be done by us that will mar the pleasant relationship that we have heretofore enjoyed.

We have been approached by the publishers of Every Week to take over the distribution of

their publication, but have spoken to Mr. Howard and he referred us to you. Also the New York Times has through Crowily asked us to undertake distribution of their Current History and their Mid Week Pictorial. Are these O. K.

Sincerely yours,

BARON & MOLASKY.

JB/rp."

RESPONDENT'S EXHIBIT No. 210.

(On letterhead Curtis Publishing Company.)

"February 15, 1917.

Messrs. Baron and Molasky
Pierce Building
St. Louis, Missouri

Gentlemen:

In reply to your letter dated February 9th concerning EVERY WEEK:

In justice to you and to avoid any situation which would be embarrassing to both you and us, we feel it our duty to say that if you were to undertake it, directly or indirectly, we should plan to cancel your arrangements with us.

Our relations have been so very pleasant and satisfactory that we hope to be able to supply and serve you indefinitely hereafter. And we request to be advised whether your decision is favorable to the continuance of our very pleasant relations for many years to come.

Thanking you for an early reply and with kind personal regards, we are,

Very truly yours

THE CURTIS PUBLISHING COMPANY

Franch Promotive Section

Dictated by (Signed) M. E. DOUGLAS.

MED BHL"

2933

By MR. SPIESS:

Q. Now, when you talked to Mr. Rankin in reference to "Pictorial Review," did he say anything to you about its circulation in St. Louis through the American News Company?

A. No; I don't exactly remember whether he did tell us about the circulation or not.

Q. Didn't he tell you that the circulation was 3500?

A. I think he told us somewhere around four thousand, thirty-five hundred to four thousand.

Q. You don't know exactly, do you?

A. No, sir.

Q. All you remember exactly is when this conversation occurred; do you remember that date?

A. Yes, sir.

Q. But you can't remember about the other dates?

A. If I have saved the letters at that time I probably would have been a little more refreshed on it.

MR. WELCH: Your recollection of the date is refreshed by being shown a telegram?

THE WITNESS: Yes, sir.

MR. WELCH: Isn't that a fact?

THE WITNESS: Yes, sir.

By MR. SPIESS:

Q. Now, what equipment have you for distributing magazines?

A. We have two trucks.

Q. How many retailers do you cover?

A. Well, would that include the newsboys, boys downtown?

Q. Oh, no; retail dealers.

A. Retail dealers, about two hundred and fifty.

Q. Two hundred and fifty?

A. Around that.

Q. How many are there in the town?

A. Well, I guess there are about two hundred and seventy-five.

Q. Now, do you sell other magazines?

A. Yes, sir.

Q. Do you sell them through boys?

A. Through boys?

Q. Yes.

A. Newsboys; yes, sir.

Q. Do you sell them?

A. Distribute through boys, through Curtis boys and newsboys.

Q. Yes. Well, now, what boys other than newsboys and Curtis boys do you distribute magazines through?

A. None.

Q. Well, then, you only distribute the magazines through newsboys and Curtis boys, isn't that so?

A. Sure, and then the dealers and stores.

Q. Yes, but I am talking about boys now.

A. Yes, sir.

Q. Now, do you send any of those newsboys in as Curtis boys when you make your reports?

A. Well, we don't any more.

Q. When did you stop?

A. Ever since this change of rate.

Q. This change of what?

A. Rate.

Q. What change of rate?

A. Three and a half cent rate, our newsboys have stands on the street and they handle magazines, all kinds of magazines.

Q. Yes. What do you charge those boys?

A. We charge those boys that handle magazines, all magazines, three and a half cents.

Q. And what do you charge the boys who don't handle other magazines?

A. Just the Curtis, three cents alone.

Q. Have you received any instructions from the Curtis Company about selling "Literary Digest" to boys.

A. No; they sanction our—we wrote them whether we could handle "Literary Digest" and they sanctioned us handling newsdealers only.

Q. I say, didn't they instruct you to sell them only through boys?

A. They said newsdealers only, and underscored newsdealers.

Q. Will you answer my question: Did the Curtis Company ever notify you that you must not sell the "Literary Digest" through boys?

A. They did not state boys in the letter; I don't think.

Q. Are you sure they did not?

A. I don't know. If I would have the letter I would tell you, but I know that newsdealers was underscored, newsdealers only.

Q. Well, I show you a letter dated March 2, 1917, from the Curtis Company in reference to the wholesaling of the "Literary Digest," and call your attention to the second paragraph, and ask you if that don't pertain to boys (handing paper to the witness).

A. I guess it does; yes, sir.

MR. SPIESS: I offer that.

MR. WELCH: No objection to that.

EXAMINER MOORE: It may be received without objection.

(Said exhibit so offered was marked by the stenographer "Respondent's Exhibit No. 211," and is as follows:)

RESPONDENT'S EXHIBIT No. 211.

(On letterhead The Curtis Publishing Company.)

"March 2, 1917.

Messrs. Baron & Molasky
Pierce Building
St. Louis, Missouri

Gentlemen:—

You ask for our approval of your undertaking to wholesale The Literary Digest.

We have no present objections to your wholesaling this publication to newsdealers only; that is, provided you refrain from supplying copies to boys.

And, of course, if you were to furnish to these publishers or their representatives, any list of names of any retailers whom you now supply with our publications, the above approval would have to be withdrawn.

Moreover, we particularly advise that you do not make with these publishers any arrangement from which you could not withdraw on thirty days' notice; for if your arrangement with them should weaken your service with our publications or result in interference with our plans or policies, we should withdraw the conditional approval above given you.

While the idea of your divorcing your efforts to the above extent from our publications arouses no enthusiasm, nevertheless it looks as if you can, if you will, handle it in such a way as not to result to our disadvantage.

As before stated, our disposition is to concede

to your individual interest everything we can without sacrificing mutual interests.

Very truly yours

THE CURTIS PUBLISHING COMPANY,

(Signed) J. M. Mullins

Branch Promotive Section

Dictated by

MED SM

(Signed) M. E. DOUGLAS."

By MR. SPIESS:

Q. Now, you took on the Warner publications, did you not?

A. Yes, sir.

Q. Did you ask for permission?

A. Yes, sir.

Q. Did you get it?

A. Yes, sir; provided we supplied newsdealers only.

Q. When was this?

A. Well, I think that was after the "Pictorial Review" broke away from the American News Company, the "Motion Picture" and Warner publications broke away.

Q. Did you understand from that letter that you were not to sell those magazines to boys?

A. I guess so. I know they never wanted us to.

Q. Have you ever sold any other magazines to Curtis boys?

A. I have not, they only—the twenty-five Curtis boys only draw the Curtis publications. Of course, if they come down and ask me for "Collier's" or "Woman's Home Companion" or some magazine that we sell retail from the stand I am only too glad to give it to them.

Q. How many boys have you altogether?

A. Well, I guess we have about sixty—about twenty-five, I suppose.

Q. Eighty-five boys?

A. Yes.

Q. Do you instruct those boys how to sell magazines?

A. Well, the Curtis boys, those that go to school—we have two kinds of boys, newsboys and schoolboys. Those who go to school and draw "The Saturday Evening Post"—the Curtis publications alone. The newsboys, of course, they work hard all day and they sell the papers and the magazines, whatever they can sell they sell, and try to do their best, I suppose. But the other boys we can't encourage to sell other publications. I have offered them coupons, etc., to encourage them to sell.

Q. Do you encourage the newsboys and instruct them?

A. Well, the newsboy is this way, he has got the publication and is going to sell it, and he looks for the profit.

Q. Do you instruct them how to sell other magazines?

A. Not very much, not to any great extent.

Q. Do you do any instructing of these boys how to sell magazines?

A. Well, I do to the other boys, those who handle the Curtis publications.

A. Yes. I am asking you if you instruct the other boys how to sell magazines.

A. I don't have the time, except once in a while, say, when "Collier's" will advertise in the newspapers I will call attention to the newspaper ad if they advertised in the paper, or if the "Literary Digest" advertise in the paper I show them the ad, and show them how to sell them.

Q. You don't call the Curtis boys' attention to that, do you?

A. Well, they don't sell that kind of stuff.

Q. Do you call their attention to it?

A. No.

Q. You would not instruct them to sell it?

A. No.

Q. Why don't you instruct them to sell?

A. They only take one, I guess once a month, once in a few months.

Q. But you sell it to them, don't you?

A. Sure, I do.

Q. Why don't you instruct them to sell more?

A. If they try to do too many things at a time they would not do anything right. If they concentrate on one thing they would be able to sell more.

Q. Why didn't you concentrate your mind on one magazine?

A. I have got so much to do.

Q. When you took over the Curtis magazines weren't you told that you would get other magazines to go along with it?

A. Yes, sir; they told us.

Q. Isn't that a big thing in handling magazines, to have other magazines to go along.

A. Our method of distribution, where we deliver to so many dealers, it helps us out on profits.

Q. Is it a fact that that would apply to a boy too who went to so many houses in the neighborhood, why couldn't he increase his sales of magazines as well as you?

A. Probably Curtis offers him so much, but it pays him to sell the Curtis publications alone, and the training, the vocational training, the vouchers, and so forth, if they sell other magazines they would get the commission, yes.

Q. Wouldn't they get training in salesmanship, too?

A. I don't know whether they would nor not.

Q. Where did you get your training as a newspaper salesman?

A. I got mine on the newspaper corner, selling papers.

Q. You became very proficient, didn't you?

A. When I first started to handle "Saturday Evening Posts"?

Q. Selling papers on the street.

A. Yes.

Q. Anybody coach you how to sell papers?

A. I hustled myself.

Q. Or how to approach, and you did pretty well, didn't you?

A. I guess I did.

Q. Haven't you got newsboys doing pretty well under you?

A. Yes, sir; I use a great deal of newsboys too.

Q. Well, you ought to—that is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. As I understood, you said you did not mind the Curtis boys taking a magazine once in a while if he asked for it.

A. No, sir; never did.

Q. But you would not let the Curtis organization take out regularly and along with the Curtis publications, another magazine to handle?

A. No, sir.

Q. These other magazine publishers that you represent don't do anything for the boys or spend any money for boys, do they?

A. Not that I know of; no, sir.

Q. In fact, you have never received any benefits from them to be applied to any boys' services, have you?

A. No; I know the Curtis Company always has—

Q. Never mind. You sell magazines, you say, through your newsboys and the Curtis boys, and to the Curtis boys you make a three-cent rate, and to the newsboys you make a three-and-a-half-cent rate?

A. Yes, sir.

Q. I understood that; is that referring to the "Post"?

A. Yes, sir; "Saturday Evening Post."

Q. "Saturday Evening Post." Now, what is the reason for that distinction?

A. Well, because the majority of them handling all magazines, for instance, "Red Book," "Blue Book" or anything like that, you see they are classed as a newsdealer.

Q. That is, the three-and-a-half-cent rate is given to those who sell from stands and on the street?

A. Yes, sir. I even went over that with the Curtis people and asked their opinion on that.

Q. They sell from stands on the street?

A. Yes, sir.

Q. Three-and-a-half-cent boys?

A. Yes, sir.

Q. And the three-cent, the Curtis boys who get the magazines for three cents, are those that have regular customers, isn't that a fact?

A. Yes, sir; those that sell only "Saturday Evening Post," "Country Gentlemen" and "Ladies' Home Journals."

Q. And nothng else?

A. No newspapers.

Q. And those are the twenty-five boys that you referred to?

A. Yes.

Q. In the report, you report only those twenty-five boys to the Curtis Publishing Company; is that a fact?

A. Yes, sir.

Q. Now, with respect to instructing these boys, the twenty-five Curtis boys, you work in conjunction with Mrs. Sturdevant and Mrs. Whittlesey, I understood you to say, didn't you?

A. That is, we are three district agents. They handle boys only and we handle boys and dealers.

Q. I know, but you work with them for the instruction of your boys as well as their boys, do you not?

A. I work singly with my boys and not with them; that is, not together, except when we have a meeting sometimes at the Y. M. C. A.

Q. Then your boys get together?

A. All the boys get together.

MR. WELCH: Yes, that is what I meant. That is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. Don't you know why the "Literary Digest" and the "Collier's Weekly" don't do any promotion work for boys in your territory?

A. Do I know why?

Q. Yes.

A. No, sir.

Q. Did you ever tell the agent that you could not sell magazines—sell other magazines through the Curtis boys?

A. Did I tell the agent?

A. Yes, the "Literary Digest" or the "Collier's" man?

A. That I could not sell them?

Q. Yes; that you was not allowed to; that was your instructions.

A. Well, on the "'Literary Digest,'' yes.

Q. You told him, didn't you?

A. Yes, I did.

Q. Then, what would be the use for him to start in a propaganda for you to sell the "Literary Digest'' through boys?

A. There wouldn't be any use.

Q. Then you know why he didn't, don't you?

A. Yes, sir.

Q. So far as your territory is concerned?

A. We handle the dealers just the same.

Q. You handle all dealers, but not the boys?

A. Yes, sir.

Q. It would not do any good to him to work through any propaganda to handle it through boys?

A. No, sir.

Q. Are you under the new contract?

A. No, sir.

Q. Have you been approached to take the new contract?

A. They have spoken to us about it, but nothing definite.

Q. Do you know why you haven't been put under the new contract?

A. I was talking to him this morning. He says he has not reached us yet.

Q. He hasn't reached you yet?

A. Hasn't had time to reach us yet.

Q. Now, at the time you were approached to handle "Pictorial Review'' you were the only wholesaler there, weren't you, in St. Louis?

A. Yes, sir—no, except the American News Company.

Q. You really wanted to handle the "Pictorial Review," didn't you?

A. Yes, we could have handled it all right.

Q. You could have handled it all right. You consider yourself efficient enough in the distribution of magazines to handle most any magazine?

A. We have the trucks to deliver them to the dealers, etc.

Q. And the more magazines you get, why, the better it is for your business; isn't that so?

A. Make a little more; yes, sir.

Q. And it has been the history of magazines that you take on that you increase the circulation of them, isn't that true?

A. I guess it must be. The figures of the publications would probably tell.

Q. You know it; you are a good promoter, aren't you?

A. I know I work.

Q. You work hard, don't you?

A. Yes, sir.

Q. You do promote the circulation of magazines you handle, don't you?

A. Yes, sir.

Q. You have done very well along that line for increasing the Curtis magazines in St. Louis, haven't you?

A. The Curtis publications; I did not handle the whole town. We have had our whole-town contract about a year ago, I think. We did not handle the whole city at one time.

Q. No, I understand.

A. Just handled a part.

Q. Can you tell me where any sale of another magazine than Curtis publications held back your promotion work on the Curtis publications?

A. Where they held it back?

Q. Yes, any other magazine interfered with the work for Curtis.

A. No.

RE-RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. The Curtis Company offers you inducements to do its promotion work, doesn't it?

A. Yes, sir.

Q. And very, very material inducements, aren't they?

A. Yes, sir.

Q. Does any other magazine offer you inducements of that character?

A. No.

Q. Did the "Literary Digest" ever offer you any inducements to do promotion work among dealers even?

A. Dealers, no.

Q. Not even among dealers?

A. No.

Q. And not among boys?

A. No, sir. They asked us to get as much as we can.

Q. Yes, I understand that. But did they spend a cent in helping you to get any dealers?

A. They advertise in the newspapers.

Q. I know, but that is not offering to help you in any way.

A. No, sir.

RE-RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. Don't advertising help you?

A. It would help us indirectly, I guess.

Q. What do you suppose the "Literary Digest" advertised——

MR. WELCH: I am not quite through yet.

MR. SPIESS: Oh, excuse me.

RE-RE-RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. The "Literary Digest" never offered you any inducements?

A. No, sir.

Q. You, as Baron & Molosky, any encouragement to push or inaugurate any promotion work among the dealers or the boys, did they?

A. No, sir.

MR. WELCH: That is all.

RE-RE-RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. But their advertising in papers——

A. Helps.

Q. Helps the sales, don't it?

A. Sure. Anything like that does.

Q. Has any other magazine publisher ever offered you any inducement for the increase of the circulation of its magazine?

A. Well, Hearst at one time did.

MR. WELCH: No other publsher but the Curtis Publishing Company, is that a fact, except Hearst's?

THE WITNESS: Well, wait a minute; excuse me; that is for the boys. I thought you were referring to the boys. Hearst offered us a bonus if we distributed all over the city, and increased all over the city.

MR. WELCH: When was that?

THE WITNESS: That was about last November or December.

By MR. SPIESS:

Q. Did "Pictorial Review" ever pay you any money for promotion work?

A. Well, they approached one time about handling posters for them.

Q. Posters?

A. Posters; yes, sir.

Q. Did you handle them?

A. No.

Q. Did they ever pay you the sum of $60 for any work you ever did for them?

A. Well, I think that was through the American News Company, through the St. Louis News Company.

Q. Yes, but you got that from them, though, didn't you?

A. Yes.

Q. The American News Company didn't pay it to you, did they?

A. I guess not. I think Mr. Rankin paid us that.

MR. SPIESS: That is all.

RE-RE-RE-RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. What was the $60 from the American News Company, from the "Pictorial Review," for, American News Company business?

A. For increasing the sale of the "Pictorial Review."

Q. That was sale at retail, wasn't it?

A. Yes, sir.

Q. Had nothing to do with the "Pictorial Review" wholesale business, did it?

A. No, sir.

Q. They never offered you anything as an inducement to take up their wholesale trade, did they?

A. No, sir.

MR. WELCH: That is all.

THE WITNESS: Because we didn't handle it.

MR. WELCH: I know you didn't, but they offered it to you and you didn't take it.

EXAMINER MOORE: Is that all?

MR. WELCH: Yes.

RE-RE-RE-RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. At that time that you got this $60, weren't you drawing "Pictorial" from the American News Company and supplying other retailers?

A. Other dry goods stores.

Q. Is that the only case?

A. Yes, sir.

MR. SPIESS: That is all.

MR. WELCH: That is all.

EXAMINER MOORE: We will take a five minutes' recess.

(And thereupon a short recess was taken, after which the following proceedings were had:)

C. RAY BAWDEN, was called as a witness on behalf of respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. C. Ray Bawden.

Q. Where do you live, Mr. Bawden?

A. Davenport, Iowa.

Q. What is the population?

A. About 50,000.

Q. Are you the Curtis district agent there?

A. Yes, sir.

Q. How long have you been the district agent?

A. About two and a half years.

Q. What was the first magazine you ever handled wholesale?

A. "Publishers' News."

Q. What do you handle now?

A. The Curtis magazines, "Collier's," and "Jim Jam Jems."

Q. What is your other business?

A. Retailer of news, cigars, etc.

Q. When did you take on the Curtis magazines?

A. About in 1915.

Q. At that time what magazines were you handling wholesale?

A. No other magazines.

Q. To whom do you sell magazines?

A. To boys and to dealers.

Q. How many dealers are there?

A. About fourteen different dealers. Several dealers have more than one store, however.

Q. How many boys have you delivering to the dealers?

A. About how many boys delivering to dealers?

Q. Yes; to dealers; how do you supply the retail dealers?

A. We have boys that deliver to dealers.

Q. And how many boys have you that deliver to the dealers?

A. About five or six boys delivering to dealers.

Q. Now, how many boys have you that handle only the Curtis magazines?

A. About forty-seven.

Q. Yes. What is the character of those boys? I mean, are they school boys?

A. Mostly school boys.

Q. Do you know the parents of the boys, know who they are and all about them?

A. I know the parents of the greater portion of the boys, yes.

Q. Do you keep in touch with them from time to time?

A. The greater portion of the boys, yes.

Q. Who is the other wholesaler at Davenport?

A. Ben Konmitz.

Q. And what does he wholesale in the way of magazines?

A. The "Pictorial," "Hearst's," the "Literary Digest."

Q. How long has he been in the magazine wholesale business?

A. At least ten years.

Q. How many boys do you report to the Curtis Publishing Company?

A. About thirty. There are from ten to fifteen boys that we class as spasmodic. They come at times and go.

Q. You don't report those boys as Curtis boys?

A. We report them when they buy.

Q. I see. Ordinarily you would report about thirty?

A. Thirty, and we have on our ledger sheets about forty-seven boys.

Q. Do you wholesale any newspapers?

A. No, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Were you ever asked to handle "Pictorial Review"?

A. I am not sure.

Q. Were you ever asked to handle the Crowell publications?

A. I am not sure.

Q. Whenever a boy sells Curtis magazines, you report him as a Curtis boy, do you not?

A. To the Curtis Publishing Company.

Q. Yes?

A. Yes.

Q. Do you tell the boy he is a Curtis boy?

A. No, sir.

Q. He would not know it, would he?

A. He wouldn't know that he was listed as a Curtis boy, no.

Q. When do you tell him that he is a Curtis boy?

A. I don't think I have ever told any boys that they were strictly Curtis boys. They are boys that carry Curtis publications.

Q. Well, what is the difference?

A. Why, I would not say that a boy was a Curtis boy unless we had an organization of some kind that would list him as a Curtis boy.

Q. Well, haven't you that organization?

A. No, sir.

Q. Do you sell these boys "Collier's Weekly"?

A. No, sir.

Q. Do they ask you to sell them?

A. We do sell "Collier's" to the dealers.

Q. I mean, do these boys that you sell to, have they ever asked you to sell them "Collier's Weekly"?

A. Not to—as a regular thing, no. I might say that a boy might wish one "Collier's" magazine for a customer, which we would be glad to supply him.

Q. Yes.

A. But we have no boys that have regular customers on "Collier's."

Q. Do you know why?

A. I would imagine that because boys have not re-

ceived from "Collier's" any literature to stimulate their imagination and desire to sell "Collier's" magazines.

Q. If "Collier's" could give you that literature would you use it?

A. Possibly.

Q. Would you?

A. I don't know. We have never had the literature given to us.

Q. Do you know why you have not?

A. I suppose it is because we were not supposed to supply boys.

MR. SPIESS: That is it. That is all.

RE-DIRECT-EXAMINATION.

By MR. WELCH:

Q. Do these boys that you report as Curtis boys receive bonuses and prizes from time to time?

A. Yes, sir.

Q. That is, from the Curtis Publishing Company?

A. Yes, sir.

Q. They receive certain benefits of that character?

A. Yes, sir.

Q. From the Curtis Publishing Company?

A. Yes, sir.

Q. Has any other publisher ever offered you any benefits of that character for boys in magazines that you are handling?

A. Not that I can recollect.

Q. Do you have meetings of these boys?

A. Yes, sir.

Q. Who is present at the meetings?

A. We usually have them when the roadmen are there.

Q. Yes. You mean the roadmen, traveling men, of the Curtis Publishing Company?

A. Of the Curtis Publishing Company; yes, sir.

Q. And when the traveling man comes into town you arrange a meeting of the boys, is that it?

A. Yes, sir.

Q. And does he address the boys?

A. Generally we have these meetings at the Y. M. C. A., and there we take up the different things of interest, and generally end up by going to the moving picture show or something like that.

Q. Is that only done for these Curtis boys that you spoke about?

A. It is done for all of the boys that carry or come to our store, yes.

Q. That carry Curtis publications?

A. Yes.

Q. Do the boys that sell the Curtis publications receive a bag when they start to sell?

A. Yes, sir.

Q. Do any other boys receive anything of that character from the other publishers?

A. At one time we had "Collier's" bags.

Q. Do they now?

A. No.

Q. Do you keep a list of the boys that sell only Curtis publications?

A. Yes.

Q. And you keep that list separate from the other boys that you have, for the purpose of your reports?

A. Yes, sir.

MR. WELCH: That is all.

RE-CROSS-EXAMINATION.

By MR. SPIESS:

Q. What other boys have you?

A. We have these boys that carry retail newspapers. We have our newspaper routes, you understand.

Q. Do they sell any magazines at all?

A. If they do they are listed again as an extra boy.

Q. A Curtis boy if they sell?

A. A Curtis boy.

Q. And they do in some cases sell Curtis magazines?

A. In some cases, yes.

Q. And you list them as such?

A. As a Curtis boy, yes.

Q. Now, when "Collier's" gave you the bags for boys, what did you do with them?

A. I think they were given out to boys, if I am not mistaken.

Q. Curtis boys, any of them?

A. I think Curtis boys got them.

MR. SPIESS: That is all.

G. H. SAGERMAN, called as a witness on behalf of respondent, was first duly sworn by the Examiner, and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. G. H. Sagerman.

Q. Where do you live, Mr. Sagerman?

A. Green Bay, Wisconsin.

Q. What is the population of Green Bay?

A. About 26,000.

Q. Are you the Curtis district agent there?

A. Yes, sir.

Q. How long have you been the agent?

A. Going on eight years.

Q. What is your other business?

A. Office supplies and stationery.

Q. What magazines do you wholesale?

A. Only the Curtis.

Q. Only the Curtis publications?

A. Yes, sir.

Q. How do you make delivery of your magazines?

A. Well, we have a delivery system, automobile and bicycles.

Q. Have you any boys?

A. Yes, sir.

Q. How many?

A. About nineteen.

Q. What do your boys handle, only the Curtis publications?

A. Just the Curtis, and then there is five or six sell the local newspapers.

Q. Those they obtain from other persons, do they not?

A. Local concerns, yes. Then I have three that carry the local and the Chicago and Milwaukee.

Q. You don't wholesale newspapers?

A. No, sir.

Q. Now, in obtaining this boy force that you have, have you received assistance from the Curtis Company and Curtis roadmen?

A. Yes, sir.

Q. Have you had meetings with the boys?

A. Yes, sir.

Q. How often?

A. Why, whenever the Curtis men, roadmen, come around, about every six weeks or two months. Once in a while I would take them out myself on Saturday afternoon and take them to a nickel show.

Q. Have the boys won any prizes, any of the boys you have?

A. Yes, sir.

Q. Received any bonuses?

A. Voucher.

Q. Voucher prizes?

A. Voucher, and some cash.

Q. Any substantial cash prizes?

A. Why, I think the biggest prize one of my boys won was about a year ago, was $8.

Q. That is about the biggest prize?

A. Yes.

Q. Have you received any bonuses of any sort outside of your commissions on sales?

A. Yes, I have; I judge about $50 at different times.

Q. What other wholesalers are there at Green Bay?

A. Why, we have two.

Q. Wholesalers?

A. A. C. Boss and Greiling.

Q. How do you spell that?

A. G-r-e-i-l-i-n-g, I think it is.

Q. What does Boss handle wholesale?

A. He handles all the Hearst publications, "Literary Digest," the "Pictorial Review," "Photoplay" and "Good Housekeeping."

Q. Does he wholesale any newspapers?

A. He wholesales all the Milwaukee and Chicago papers.

Q. Now, he is a big wholesaler in Green Bay?

A. He is the biggest one; yes, sir.

Q. What does Greiling wholesale?

A. He wholesales the "Milwaukee Journal" and the Crowell publications.

Q. Were you asked to take on the Crowell publications?

A. Yes, sir.

Q. When was that?

A. About a month ago.

Q. And what proposition was put up to you?

A. Why, they wanted me to guarantee a certain sale, and I would not guarantee it. And then they also wanted me to run the account, I think it was to the Western News Company, Chicago, and get the magazines direct through them.

Q. Did they want you to distribute through your boys?

A. Well, we never got that far. They just made these two propositions to me and I told them I wasn't interested in giving the account to the Western News and getting the magazines from them.

Q. At that time was Boss, the big wholesaler that you have referred to, in business?

A. I referred them to Boss, and he would not take it, and then they got Greiling.

Q. You were never asked to take on the "Pictorial Review"?

A. No, sir; Boss has the "Pictorial."

Q. Are you under the new contract?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. What is the Western News?

A. Western News Company, Chicago—American News Company.

Q. Why didn't you want to take on the account with them?

A. Well, I didn't care to have—I was getting from the Western News, anyway, and they gave me good service, and I didn't feel like changing around and running separate accounts, and then they wanted me to—the real reason was to guarantee a certain amount. They wanted me to take seventy-five of one kind and a

hundred of the other, and I had been handling them at my stand and sold five or six copies, and I didn't feel like guaranteeing any such an amount.

Q. Has the Western News Company a branch in your town?

A. No.

Q. How do you get them from the Western?

A. By express.

Q. And you say that is satisfactory service?

A. Why, it has been satisfactory. I used to take them from the Wisconsin News, at Milwaukee. That is a branch of the American News Company, too.

Q. Who pays the express?

A. I do.

Q. Is that more satisfactory than if you got them without paying express?

A. Well, it would be in this instance, where I can't cancel, and order just as many as I want.

Q. Well, I mean, if you had the same privileges of return as you had at the Western News Company, would that be just as well as if you didn't have to pay the express?

A. I suppose it would. I really haven't figured on it, because I don't sell very many Crowell publications.

Q. In other words, if you had full return privileges, as you have under the Western News Company, it would be better to get them direct than to receive them by express, wouldn't it?

A. Well, I don't know. Now I return the magazines back to the Western News at Chicago, and if I got them from them I suppose I would have to return them back to New York or different places.

Q. If these magazines were laid down to you at cost and you had the full return privilege, wouldn't that be a better way than from the Western News Company, where you have to pay the express charges?

A. No, I think the difference between Chicago and New York freight going back would eat up the difference of the express, I should think, from Chicago to Green Bay.

Q. Don't you only send the covers back?

A. No; the whole magazine.

Q. Do you get any magazines direct?

A. I get the Munsey publications direct.

Q. Do you wholesale the Munsey?

A. No, sir; just retail.

Q. You get the Crowell's direct, don't you?

A. Yes, sir.

Q. How do you make the returns to them?

A. Just the Munsey's, now, the Munsey's, they want the back cover and the front cover and the edge, and you send them back by parcel post and it is just about twenty-five or thirty cents.

Q. Yes, but, now, if you had a magazine where the returns were the same as on the Curtis Publishing Company, wouldn't it be better if you didn't have to pay express charges and got them direct than it would be the way you are now getting them from the American News Company?

A. Well, it would be if I would not have to guarantee a certain sale for them.

Q. Where do you get your "Pictorial Reviews" from?

A. I get about half from the Western News and half from Boss.

Q. You don't wholesale any "Pictorial Review"?

A. No.

Q. I wanted to ask you a couple more questions. Did you ever try to wholesale any other magazine than the Crowell's?

MR. WELCH: What is that, Mr. Spiess?

By MR. SPIESS:

Q. Did you ever try to wholesale any other magazine than the Curtis magazines?

A. No, sir.

Q. Never did?

A. No, sir.

MR. SPIESS: That is all.

MR. WELCH: That is all.

(Witness excused.)

A. B. CATTERFELD, called as a witness on behalf of respondent, was first duly sworn by the Examiner, and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. A. B. Catterfeld.

Q. Where do you live?

A. Flint, Michigan.

Q. What is the population?

A. It is pretty hard for me to say. It is growing so rapidly, it is estimated from seventy-five to a hundred thousand.

Q. What business are you engaged in?

A. I am a member of the firm of the Busch-Catterfeld Company, and we handle books and magazines, stationery and drugs and office supplies.

Q. Are you the district agent for the Curtis Publishing Company?

A. I am.

Q. At Flint?

A. Yes.

Q. How long have you been district agent?

A. Since October, 1917.

Q. And do you wholesale any other magazines except the Curtis magazines?

A. No, sir.

Q. How do you make delivery of the magazines?

A. We deliver them with a Ford.

Q. That is to dealers?

A. That is just to dealers; yes, sir.

Q. Have you any boy organization?

A. Yes, sir; we have sixty.

Q. Sixty?

A. Thereabouts, boy agents.

Q. Sixty boys?

A. Yes, sir.

Q. How do you obtain those boys?

A. They were all given to me with the organization, with the exception of possibly ten of them, were just handed to me.

Q. That is, they were turned over to you?

A. Turned over.

Q. At the time that the former agent ceased to act?

A. Yes, sir.

Q. And since that time has the Curtis Company worked along in instructing and keeping boys together —the Curtis roadmen?

A. Mr. Reynolds has been quite busy. He has not very much—he has been in several times, and I would get tips from him. We haven't had any meetings with the boys yet.

Q. When these boys were turned over to you they were all rather efficient in selling?

A. Yes, sir.

Q. They had been doing it?

A. Yes, sir.

Q. What is the average age of these boys?

A. Well, the average age I should say——

Q. What is the youngest?

A. Well, the youngest is about seven.

Q. About seven years of age. How old is the oldest?

A. Possibly fifteen.

A. They are all schoolboys, with one exception. You better make that sixteen, I guess.

Q. Sixteen.

A. He works in a factory.

Q. Have you had any communication with the parents of these boys in regard to their work?

A. Why, about half of them I know personally, or else they 'phone me, or I have made some arrangements with the boys for them to carry them.

Q. Is this boy force of sixty boys fairly permanent, or is it changing?

A. It is practically permanent, possibly it might shift a little, probably one boy a week.

Q. Do these boys handle any other magazines or newspapers, so far as you know?

A. Yes. Possibly seven or eight of them handle newspapers, sell newspapers, either have permanent customers or sell on the street.

Q. And those they obtain from some other concern than you?

A. Yes, sir.

Q. You don't wholesale any newspapers, do you?

A. No, sir.

Q. Now, is there any other wholesaler of magazines at Flint?

A. Yes, sir.

Q. What is his name?

A. H. C. McKeller.

Q. How do you spell it?

A. M-c-K-e-l-l-e-r.

Q. What does he wholesale?

A. He has "Collier's" and "Literary Digest" the Crowell group, "Pictorial Review," the Munsey group, the Hearst group, Warner, and I guess pretty nearly everything else that he can buy direct.

Q. Does he wholesale newspapers also?

A. He wholesales the "Chicago Examiner," the "Chicago Tribune" and the "Detroit Free Press."

Q. And he is the big wholesaler of magazine-there, isn't he?

A. Yes, he is the largest.

Q. The largest there?

A. Yes, sir.

Q. Is there any other newspaper wholesaler there?

A. Yes, there is one, the "Detroit News" agent. I don't know his name.

Q. Who wholesales newspapers?

A. He used to wholesale newspapers only.

Q. Were you asked to take on the "Pictorial Review"?

A. Yes, sir. I was not asked exactly. Mr. McMurray approached me and said there would be a change in the agency, at least he expected so, and asked me if I would be willing to take it on.

Q. When was that?

A. Probably about three months ago. I could not say exactly. It was in February, I think.

Q. At that time was there any other wholesaler there?

A. Yes, Mr. McKeller was there.

Q. You didn't take it on, did you?

A. No, I did not. We made arrangements to draw our own quota direct for our retailers.

Q. Yes, but I mean wholesale.

A. Yes.

Q. Are you under the new contract?

A. Yes, sir.

Q. Have you ever been asked to handle the Crowell publications wholesale?

A. Yes, sir.

Q. When was that?

A. About a month ago, I should say, possibly earlier.

Q. Who spoke to you about it?

A. I don't remember the gentleman's name.

Q. He stated he was from the Crowell Publishing Company?

A. He stated he was from the Crowell Publishing Company, and I had previously written them and had the proposition submitted to me, and it didn't appeal to me, so I turned it down.

Q. Now, at that time that the Crowell representative approached you and wanted you to wholesale Crowell publications, was McKeller in business, and the big magazine wholesaler there?

A. Yes, sir; just starting in.

Q. Just starting in, in March, 1918; you don't mean that.

A. Well, he just was taking hold, starting about the same time I did wholesaling.

Q. How long had he been handling "Hearst's"?

A. About seven months.

Q. Seven months?

A. Yes, sir.

Q. Well, this Crowell representative approached you in March, 1918, didn't he?

A. Yes, sir.

Q. Then Mr. McKeller had been in business for five or six months, hadn't he?

A. Yes, sir.

Q. As a magazine wholesaler?

A. About that time.

Q. And he was in business at that time as a big magazine wholesaler, wasn't he?

A. Yes, sir.

Q. You refused because you didn't care to take on the Crowell publications, is that it?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Who was the agent there before Mr. McKeller?

A. Mr. Bryant, the Flint News Company.

Q. When you had this conversation with Mr. McMurray you testified that he told you there was going to be a break in the agency and he wanted you to take on the "Pictorial Review"?

A. No, I did not say that.

Q. What did you say?

A. I said that he thought there would be a change, and that he was considering a change in the agency.

Q. Yes.

A. And that he asked me if I thought I would take it on if there was a change, or something to that effect. I would not say exactly.

Q. Didn't he ask you whether you would like to take it on?

A. No, he didn't ask me that, I don't think.

Q. Did he come out and ask you would you take it on?

A. Not that I recall. I could not say. I didn't make any definite promise. What I was after was to get our own magazines through there.

Q. Yes; but did he positively ask you to take it on, or did he ask you whether you would consider the proposition?

A. No, he didn't even ask me positive, or didn't even ask me to consider it.

Q. Didn't ask you positively to take it on, did he?

A. No.

Q. After Mr. Bryant left the Flint News Company were you offered the agency for the "Pictorial Review"?

A. No, I was not.

Q. Mr. McKeller was, though, and he got it; isn't that a fact?

A. I don't know about that.

Q. Well, he got it?

A. Yes, sir.

Q. He succeeded Mr. Bryant, didn't he?

A. No, he didn't succeed him.

Q. I mean as a wholesaler in that territory, didn't he?

A. He took over most everything; yes, sir.

Q. Is the Flint News Company there yet?

A. No, the Flint News Company is not doing business.

Q. That went out of business when Mr. Bryant ceased operating with it; isn't that true?

A. Yes, sir.

Q. And Mr. McKeller began operating immediately thereafter, isn't that true?

A. No, he was operating before then. There were three of us in that territory at one time. He then took over the "Pictorial" after Mr. Bryant quit.

Q. What was the Flint News Company handling when it ceased business?

A. Well, that is pretty hard, he lost most of it.

Q. Were they handling all these magazines that you enumerated as now being handled by McKeller?

A. No, they were handling all of them—I would say not definitely, because I don't know, but they were handling all of them probably, with the exception of the "Hearst's."

Q. With the exception of the "Hearst's. Did you try to get the Hearst agency?

A. No, it was offered to me, though.

Q. And you declined to accept it?

A. Yes, sir.

Q. Why?

A. Well, because it was before I entered into the field at all. I wasn't even considering the wholesale agency, didn't care for that business.

Q. How did you come to enter the wholesale field?

A. Well, Mr. Reynolds presented it so that it looked so good to me I thought I would take a chance on it. That is the truth about it.

Q. And you only handle the Curtis magazines?

A. Yes, sir; wholesale.

Q. Is that all you wholesale?

A. That is all I wholesale.

Q. What other business are you in?

A. I handle books and stationery and drugs, and office supplies, anything I can sell.

Q. How many "Posts" do you sell?

A. At retail, you mean?

Q. No, per week, wholesale.

A. We draw sixteen hundred and fifty, net; probably fifteen hundred.

Q. How many "Journals"?

A. "Journals," about one thousand.

Q. How many of these are sold through the boys, of the "Journals"?

A. The "Journals," through the boys are about four hundred, I should say.

Q. How many "Posts," through the boys?

A. Through the boys, it would be about a thousand.

Q. How many retailers do you serve there?

A. Forty.

Q. Then of the forty retailers, you only serve about five hundred "Posts" every week?

A. Yes, sir; that is, at the present time. It varies, of course.

Q. You are under the new contract?

A. Yes, sir.

MR. SPIESS: That is all.

MR. WELCH: That is all.

ROYAL JOHNSON, called as a witness on behalf of respondent, was first duly sworn by the Examiner and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Royal Johnson.

Q. Where do you live, Mr. Johnson?

A. Milwaukee, Wisconsin.

Q. How old are you?

A. Seventeen.

Q. Are you the Curtis district agent for part of Milwaukee?

A. For part of Milwaukee.

Q. For part of Milwaukee?

A. Yes, sir.

Q. What section of the city do you cover?

A. Well, it is practically the northwestern section. The twenty-eighth, twenty-fifth and seventh wards.

Q. How long have you been the district agent for that section?

A. Since October, 1916.

Q. And prior to that did you sell the Curtis publications in any way?

A. For about four years.

Q. And four years before that were you a Curtis boy?

A. Yes, sir.

Q. Did you sell the "Post"?

A. Yes, sir.

Q. And who did you sell those under, what was the name of the agent?

A. Under Mr. Robb.

Q. Was he the agent in that district before you?

A. He had charge of the whole city.

Q. Charge of the city?

A. Yes.

Q. And then in 1916 became district agent for that section?

A. Yes, sir.

Q. Now, who do you serve with the Curtis publications, dealers as well as boys?

A. Yes, sir.

Q. How many dealers have you that you deliver to?

A. In the neighborhood of ten.

Q. How do you get your magazines to them?

A. Personal delivery.

Q. Personal delivery, did you say?

A. Yes, sir.

MR. WELCH: What was the question?

(The stenographer read the question and answer.)

By MR. WELCH:

Q. That is, to the retail dealers?

A. Yes, sir.

Q. Do you distribute through boys also?

A. Yes, sir.

Q. Do you sell the boys?

A. Yes, sir.

Q. How many boys have you got?

A. Around forty.

Q. How did you obtain those boys?

A. Well, through school lists and through house to house canvass.

Q. Did you get boys that you knew personally or that you knew the families of?

A. Most of the boys, yes.

Q. Do you go to school there?

A. I go to the North Side High School; yes, sir.

Q. You go to the high school now?

A. Yes, sir.

Q. Now, did you get all of those forty boys since you have been the district agent there, or were any turned over to you?

A. There were some boys turned over to me, but they are all moved away now, the boys that are old enough to work.

Q. When you get a boy and start him in do you give him any instructions?

A. Yes sir. I just go to the parents and tell them the wonderful training he gets in the Curtis salesmen, Y. M. C. A. membership, and his school record has got to be good and he has got to tend school regularly.

Q. You see the parents of the boys personally?

A. Yes, sir.

Q. And then when a boy comes and undertakes to sell "Posts" and "Journals" you instruct him in salesmanship, do you?

A. Yes, sir.

Q. Does the Curtis traveling representative assist you in any way?

A. Yes, sir.

Q. Has the Curtis Company assisted you in getting boys when you needed them from time to time?

A. Yes, sir.

Q. Do you have any meetings of the boys at any time?

A. Generally once a month.

Q. And these forty boys are a pretty permanent force, are they?

A. Yes, sir.

Q. What are the ages of the boys?

A. They range from twelve to fifteen.

Q. How many "Posts" do the boys sell?

A. In the neighborhood of two hundred and twenty-five.

Q. How many "Journals" do the boys sell?

A. Two hundred and twenty-five.

Q. The same as the "Posts," you mean?

A. Yes, sir.

Q. How many "Country Gentleman"?

A. Seventy-five.

Q. Seventy-five. Are there any other magazine wholesalers that you know of in Milwaukee?

A. Yes, sir.

Q. Who is that?

A. M. L. Annenberg, and the Wisconsin News Company.

Q. What does M. L. Annenberg handle?

A. Well, "Every Week," "Saucy Stories," "Hearst's."

Q. He is the big wholesaler there, isn't he?

A. Well, it is between him and the Wisconsin News Company.

Q. Wisconsin News Company is a branch of the American News Company?

A. Yes, sir.

Q. And M. L. Annenberg is a big wholesaler outside of the American News Company branch?

A. Yes, sir.

Q. You were not asked to handle the "Pictorial Review" or Crowell publications, were you?

A. No, sir.

Q. You handle only the Curtis publications, I understood you to say?

A. Yes, sir.

Q. You do not wholesale newspapers?

A. No, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How many boys have you got?

A. Forty.

Q. How many "Posts" do you sell through these boys?

A. Two hundred and twenty-five.

Q. It averages a little less than six copies per boy per week?

A. Yes, sir.

MR. SPIESS: That is all.

T. J. HYDE was called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Hyde?

A. Duluth, Minnesota.

Q. Are you the district agent for the Curtis Publishing Company at Duluth?

A. Yes, sir.

Q. How long have you been agent?

A. Two years the first of May.

Q. Do you handle only Curtis magazines wholesale?

A. Yes, sir.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. How many dealers do you deliver to?

A. Forty-four.

Q. How do you make your deliveries?

A. By auto entirely.

Q. Do you also handle the Curtis publications through boys?

A. Yes, sir.

Q. How many boys have you got?

A. One hundred and seventeen on the last report.

Q. Do you report those boys to the Curtis Publishing Company?

A. Yes, sir.

Q. How many boys were turned over to you when you took the agency?

A. I did not get the report; the report was not turned over, but as I remembered it, it was ninety-five.

Q. That is, when you took the agency, ninety-five boys were turned over to you by the Curtis Publishing Company?

A. Yes, sir.

Q. What is the general character of those boys?

A. They are all school boys, the sons of business men and professional men and some few mechanics and small storekeepers.

Q. Do they have regular customers, as a rule?

A. Yes, sir; they have their routes, as it is called.

Q. What is the age of the boys, generally?

A. About from nine to fifteen years. I have a few boys who are nine years old, in the outlying districts.

Q. How long does a boy usually stay with you, as a rule?

A. I have boys who are selling that were selling long before I took the agency; they stay generally until they get into the last year of high school and then feel they are too big to continue.

Q. You have some boys who have been with you more than three years?

A. Yes, sir.

Q. Do you have meetings with the boys?

A. Occasionally we have meetings, and when the traveling superintendent comes along, we always have a meeting with all the boys, at some local place, usually the boys' Y. M. C. A., at the assembly hall, which holds about two or three hundred people.

Q. And the Curtis traveling representative assists you in holding those meetings and in getting together —is that it?

A. Yes; he generally gives them a talk and instructs them in regard to selling and generally he has some offer to make to them—some little bonus for increasing their sales.

Q. How did you increase the number from ninety-five to 117—did the Curtis Publishing Company assist you in that?

A. They advertised in the evening papers and they ran an advertisement not long ago three times a week for four weeks.

Q. That was paid for by the Curtis Publishing Company?

A. Yes, sir.

Q. Have these boys won any prizes or premiums of any substantial amount?

A. Yes; we have some boys there now—when that offer was out—who used to get a bonus check of two dollars a month right along for several months, and I know several of them who have gotten one dollar checks.

Q. Were there prizes offered for boys?

A. Yes, sir; we are running a contest now that has ten prizes offered that expires the first of July.

Q. Have you, as district agent, received any bonus payments or any compensation above the commissions you have received on the sales of your magazines?

A. I have won three prizes of ten dollars a month, three different times, and fifteen dollars bonus on the "Journal" one month and twelve dollars on another one last fall. Every month or two I get something.

Q. Something over and above the amount of the commissions you earn on your sales?

A. Yes, sir.

Q. What other wholesaler of magazines is there at Duluth?

A. The principal one is the Zenith News Company, E. N. Stone, proprietor.

Q. That is not a branch of the American News Company?

A. No, sir; it is a local concern.

Q. And E. N. Stone is the head of it?

A. Yes, sir.

Q. What do they wholesale?

A. I think he has twenty-six magazines, all of the Hearst magazines, the "Pictorial" and "Digest" and "Collier's."

Q. How long has he been in business?

A. Twenty-five years, I think.

Q. He is the big wholesaler of magazines in Duluth?

A. Yes, sir.

Q. Is there any other wholesaler of newspapers or magazines?

A. A party by the name of B. C. Harris.

Q. What does he wholesale?

A. He wholesales "Every Week" and the Crowell publications.

Q. And newspapers also?

A. Yes, sir; the "Minneapolis Tribune" and similar papers.

Q. Is there any other newspaper wholesalers there besides those two?

A. There are one or two that just have some local or Twin Cities papers.

Q. Did I ask you the ages of the boys you have?

A. Yes, sir; from nine to fifteen.

Q. Are you under the new contract, Mr. Hyde?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. You said you had this agency for about two years?

A. Yes, sir.

Q. I think you also stated some of these boys had been with you three years. I just want you to get the record correct.

A. They have been with me since I have had the agency and I know they have sold over a year prior to my taking the agency.

Q. How do you know that?

A. From their statements—of course it is hearsay, but what the Curtis agent tells me and what the boys all tell me.

Q. Were you ever approached to handle the "Pictorial Review"?

A. Ever approached; yes, sir.

Q. To handle the "Pictorial Review"?

A. No, sir.

Q. Were you ever approached to handle the Crowell publications?

A. Never approached by any other wholesaler, except one or two small ones.

MR. SPIESS: That is all.

MR. MILBURN: That is all for the day.

EXAMINER MOORE: We will stand adjourned until tomorrow morning at ten o'clock, in room 678.

(Thereupon, at 5.20 o'clock P. M., an adjournment was taken until tomorrow, Wednesday, May 22, 1918, at ten o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission,
v.
Curtis Publishing Company.
} Docket No. 15.

Federal Building, Chicago, Illinois.
Wednesday, May 22, 1918.
10.20 o'clock A. M.

The above entitled matter came on for further hearing, pursuant to adjournment.

Present:

EXAMINER CHARLES S. MOORE, Presiding.

A. M. DALY, ESQ., and L. A. SPIESS, ESQ., on behalf of the Commission, and

JOSEPH W. WELCH, ESQ., and JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

W. C. GELENG, called as a witness on behalf of the respondent, having been first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you connected with the Curtis Publishing Company?

A. I am.

Q. In what capacity?

A. Superintendent of agencies.

Q. How long have you been superintendent of agencies?

A. A little over six years.

Q. What is your district, your own district?

A. It varies at times. It now contains, and has for the last two years, Chicago and Cook County and Milwaukee, Wisconsin.

Q. Have you in the last few months, at the request of the company, made an investigation covering the wholesale situation and reported to the company on the pink and white slips?

A. Yes, sir.

Q. Your investigation covered territory other than your own, did it not?

A. No, sir; not the investigation; just my own territory.

Q. Your reports——

A. My reports cover my own territory.

Q. How many towns did you investigate?

A. Fourteen towns, covering fifty-seven agents.

Q. What was the principal city?

A. Chicago, Illinois.

Q. How many agents are in Chicago?

A. Twenty-six.

Q. What did you do in this investigation—how did you go about getting this information?

A. I called on the retail dealers, the wholesale dealers, newspaper men and others, to find out who wholesaled in these cities.

Q. How many of the towns covered by you contain only one magazine wholesaler?

A. Eight.

Q. In how many towns where there is only one magazine wholesaler, does he handle the Curtis magazines only?

A. Seven.

Q. How many of your agents wholesale only Curtis publications?

A. Fifty-four.

Q. And how many of them began the magazine

wholesale business with the Curtis Publishing Company?

A. All fifty-seven.

Q. In how many of your towns where the Curtis agents handle other magazines is that agent the only wholesaler of magazines?

A. In only one.

Q. How many of your agents do not wholesale newspapers at all?

A. Fifty-three.

Q. In making up these figures you excluded the American News Company branches and any agents or any man who might be wholesaling Crowell or "Pictorial Review"—is that correct?

A. I did.

Q. If you had counted these in, it would make a slight change?

A. Yes, sir.

Q. Your figures are all based on the date of the investigation?

A. Yes, sir.

Q. And if you encounter a town or city where a change has happened since then, just so state when you are asked the question.

A. Yes, sir.

MR. DALY: I have no questions.

W. L. EARNSHAW, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you connected with the Curtis Publishing Company?

A. Yes, sir.

Q. What position do you hold?

A. Superintendent of agencies.

Q. How long have you been in that position?

A. For about two years.

Q. Have you a district of your own which you take care of?

A. Yes, sir.

Q. And supervise?

A. Yes, sir.

Q. Were your investigations confined to that district, or did you investigate other cities or towns?

A. No; I made investigations in other cities also.

Q. And that investigation was made during the past few months at the request of the company, and you reported as to the wholesale situation, did you not?

A. Yes, sir.

Q. How many towns did you cover?

A. Fifty-five.

Q. And how many agents?

A. Fifty-five.

Q. Can you tell me, as the result of your investigation, in how many of the towns covered by you is there only one magazine wholesaler?

A. Just repeat that question, please.

Q. What territory do you cover?

A. Minnesota and part of North Dakota.

Q. In how many of the towns covered by you is there only one magazine wholesaler, if you know?

A. Thirty-one.

Q. And in how many of those thirty-one towns where there is only one wholesaler, does he handle only the Curtis magazines?

A. Twenty.

Q. How many of your agents handle only Curtis magazines, not counting newspapers?

A. Thirty-eight.

Q. How many began in the magazine wholesale business with the Curtis magazines?

A. Forty-five.

Q. In how many of your towns where the Curtis agents handle other magazines is that agent the only wholesaler of magazines?

A. Eleven.

Q. And how many of your agents investigated by you do not wholesale any newspapers at all?

A. Forty.

Q. In these figures that you give—in compiling them, you excluded the American News Company branches and agents for the "Pictorial" and Crowell Publishing Company?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Let me have the eleven towns where the Curtis man handle other magazines?

A. Charleston, Illinois; Galena, Illinois; Hammond, Indiana; Whiting, Indiana; Chisholm, Minnesota; Faribault, Minnesota; Fergus Falls, International Falls, Minnesota, and Grand Forks, North Dakota.

By MR. MILBURN:

Q. You have the wrong list, I think. Can you correct yourself on that? Mr. Daly wants the places where the Curtis agent handles other magazines and is the only wholesaler in the town.

A. This computation is evidently wrong, then.

Q. Have you looked over your reports to find out the towns where the Curtis agent handles other magazines and is the only wholesaler, and if so, will you now tell us in how many instances that situation occurs —this figure to which I have referred, your answer of eleven—is not that figure out seven?

A. It should be seven.

Q. Will you name those towns, because you gave a partial list which was incorrect, and I want to get the correct list on the record.

By Mr. Daly:

Q. These agents you mentioned, speaking of all the agents you testified about, are they under the new contract? Are they all under the new contract?

A. All of them I am not familiar with; that is, I covered towns in territory which was not my own.

Q. How many of these towns are under the new contract, if you know? Take Whiting, for instance. Is your man there under the new contract?

A. I do not know.

Q. He is J. L. Clark, according to your report, and handles the Curtis group, and is the only wholesaler there. Was he the only wholesaler there in 1917—the conditions have been the same in that town for some time past?

A. As far as I know.

Q. The Lorge Pharmacy is your agent there and handles the Hearst group and the Curtis group and the Munsey group. How long has that company been your agent?

A. Several years.

Q. And do you know whether they are under the new contract?

A. They are.

Q. When did that happen?

A. Four or five months ago.

Q. At Galena, your man there handles the Curtis group and the Hearst group. Does he handle any other smaller magazines?

A. Let me see the report.

Mr. Milburn: The report says only Curtis and Hearst.

By Mr. Daly:

Q. I asked you if you put in the smaller magazines in this case—E. W. Kempter?

A. I put on everything he handled at that time, as far as my investigation went.

Q. He was the only man there, is that correct?

A. Yes, sir.

Q. He was under the old contract. He was there for a long while?

A. Yes, sir.

Q. He is under the new contract now?

A. That I do not know.

Q. At Chisholm, Minnesota, your man is Olcott, and handles the Hearst, Munsey and Curtis magazines. How long has he been there—is he an old man?

A. Yes, sir; three or four years.

Q. He was under the old contract. Do you know whether he has been put under the new contract?

A. He is under the new contract.

Q. When did you do that?

A. Three or four months ago.

Q. Grand Forks, your man is R. W. Smith and handles the Curtis and Hearst magazines. There are no other men there—is that correct?

A. Yes, sir.

Q. Is he an old man there?

A. He is a comparatively new man there.

Q. When did he begin—about when?

A. I would say about four months ago.

Q. Who was the agent there before him?

A. McKeller—a man by the name of McKeller.

Q. What did he handle?

A. The same lines.

Q. And he was the only man there at that time, and he was there some time before that?

A. Yes, sir.

Q. And is Smith under the new contract, did you say?

A. He is not.

Q. Now, in Minneapolis, J. C. St. Marie is the only wholesaler there, or was, until recently, was he not?

A. Yes, sir.

Q. Your reports show that he handles the Curtis and Hearst magazines. Does he not handle a number of smaller magazines?

A. Since that time he has taken on one or two others.

Q. What ones has he taken on?

A. He has taken on the Warner line.

Q. And Jake Boulter handles the "Pictorial Review"—is that correct?

A. Yes, sir.

Q. And nothing else?

A. He has only their line at the present time.

Q. When you made this report on the second month and the twenty-first day, he handled nothing but "Pictorial."

A. Nothing but "Pictorial."

Q. And he is a new man there?

A. Yes, sir.

Q. How many copies of "Posts" does Marie handle?

A. His drawings at this time are 9500 copies.

Q. And of "The Ladies' Home Journal"?

A. Eight thousand six hundred.

Q. And "The Country Gentleman"?

A. Fourteen hundred.

Q. And do you know the number of wholesalers that he serves in that city?

A. He serves no wholesalers.

Q. I mean retailers.

A. Two hundred, and I think it is eighty-five. About 285.

Q. Is that all the retailers in the city?

A. Yes, sir.

Q. And he is a capable man in that business?

A. Quite so.

Q. As a matter of fact, you try to get the most capable man you can to handle your magazine wherever you go in your district?

A. Yes, sir.

Q. Is that true?

A. Yes, sir.

Q. And these agents that I have spoken about are good men, are they not?

A. Yes, sir.

Q. I mean from the standpoint of magazine men?

A. Yes, sir.

Q. Now, at Charleston, Jesse D. White is your agent, and she—is it a man or a woman?

A. It is a man.

Q. He handles the Munsey group and your magazines, and how long has he been there?

A. That I could not say.

Q. Is he an old agent there?

A. I am not informed as to how long he has been there.

Q. How long have you known him to be there?

A. I just made this investigation.

Q. You were never there before?

A. No, sir.

Q. How did you find out he was the only man there? Did you ask him?

A. Let me see the pink sheet and I will tell you.

Q. It says you talked with Mr. White and dealers over the 'phone; you did not call on him personally?

A. No, sir.

Q. How many cities—in how many cities, did you just simply interview people over the 'phone—in Hammond, Indiana, you say you had an interview with dealers. Was that over the telephone, too?

A. If it says so on the pink sheet, it is so.

Q. It does not say so. It just says, "Interviewed dealers." There were a number of places that that happened?

A. Quite a number.

Q. Is this man White under the new contract?

A. I could not say.

Q. You did not ask him that?

A. No, sir.

Q. You know he was under the old contract, do you not?

A. He was under contract at that time.

Q. Under some contract at this time. Do you know whether it was the old or the new contract?

A. No, sir.

Q. Do you not know—cannot you give us some idea? He was there before you went there for some time, was he not?

A. Hammond, Indiana?

Q. Yes. At Hammond, Indiana, you have Walter and Fitzgerald, and they handle the Curtis magazines, the Hearst magazines, Crowell's, Munsey, "Pictorial Review," "Motion Pictures" and "Classic." This report was written the third month and the fifteenth day this year. At that time they were the only wholesalers there, were they not?

A. What was that town?

Q. Hammond, Indiana. How many dealers did you interview there?

A. If you will just let me see my sheet——

Q. You could not tell anything about it?

A. Yes, I can. (After looking at sheet)—between five and seven.

Q. Can you name any of them?

A. No, I cannot.

Q. You do not know who they were?

A. I paid no attention to who they were.

Q. This report discloses that Walter and Fitzgerald handled the "Pictorial Review" when you made this investigation. Do they still handle it?

A. I do not know.

Q. Did you talk to them about it?

A. About "Pictorial Review"?

Q. Yes.

A. No; I did not.

Q. You did not see them at all—is that correct?

A. No, sir; that is not correct.

Q. Did you see Walter and Fitzgerald?

A. I did.

Q. And you never said anything about "Pictorial Review"?

A. No, sir.

Q. Your report shows they do not handle the Crowell publications. Did you make any inquiry about that?

A. Yes, sir.

Q. What did they say about that?

A. They were not handling it at the time I was making this investigation.

Q. That is all the conversation was about—is that correct?

A. That is correct.

Q. I think I asked you about Whiting, did I not? Clark is your agent there?

A. Jess Clark.

Q. J. L. Clark?

A. Yes, sir.

Q. How many agents have you changed in your district that handle "Pictorial Review"?

A. One.

Q. Where was that?

A. Little Falls, Minnesota.

Q. Who was your agent there?

A. Sherman Levis.

Q. What did he handle?

A. He handled the Curtis and "Pictorial Review."

Q. Anything else?

A. That is all he handled in a wholesale way.

Q. Was he an old agent there of yours?

A. He has been there for four or five years.

Q. With whom did you place your agency then?

A. Herman Roberts.

Q. Did he handle anything else?

A. He had handled nothing before.

Q. He was a new man—is that correct?

A. Yes; he is a boy.

Q. How big a town?

A. About 6000.

Q. Then you have given the only changes which have taken place for how long—for two years back?

A. No; there have been several changes in two years.

Q. Did you make them?

A. Yes, sir.

Q. What changes did you make within the last two years?

A. St. Cloud.

Q. Were any of these changes you are going to give us because they handled some other publications?

A. With the exception of Little Falls—that is the only exception.

Q. The other changes were for some other reason?

A. In the regular course of business.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You referred to some of the towns in which you communicated by telephone. Did you call up the district agent in those towns and get his information on this situation?

A. My course of procedure was to first call our district agent in the town and get him to tell me who the various wholesalers were, and also what he handled. Then I took his list and got into communication with everyone—three or four of the principal magazine wholesale dealers in the town, and checked the information which the district agent gave me.

Q. You do not mean wholesale dealers?

A. Magazine retailers.

Q. Retailers?

A. Yes, sir.

Q. You checked him up to see if he was right?

A. Absolutely; if he gave me the name of any wholesaler in the town I also checked him.

Q. Did you go personally to all of the principal towns or the cities in your district?

A. To the principal cities.

Q. In places there were some that you did not get a chance to get into, and therefore you telephoned?

A. Yes, sir.

Q. Were they large or small places?

A. Small towns, that is, they would run all the way from two to ten thousand—smaller sized towns.

MR. MILBURN: That is all.

M. D. Reynolds, called as a witness on behalf of the respondent, having been first duly sworn by the Examiner, testified as follows:

Direct Examination.

By Mr. Milburn:

Q. Are you connected with the Curtis Publishing Company?

A. I am.

Q. In what position?

A. Superintendent of agencies.

Q. How long have you been in that position?

A. Possibly three years.

Q. And what district do you cover personally yourself?

A. I cover the southern peninsula of Michigan.

Q. Have you made an investigation and made certain reports to the company on the wholesale situation?

A. I have.

Q. What district did you cover?

A. I covered most of my own territory. There were a few towns that I was unable to reach, and they were covered by another superintendent.

Q. How many towns have you?

A. How many did I cover, you mean?

Q. Yes.

A. Thirty-four.

Q. You covered thirty-four in this investigation?

A. Yes, sir.

Q. And that means thirty-four agents, does it not?

A. Yes, sir.

Q. What did you do by way of an investigation?

A. I went into each town personally. I called on the agent, and I called on at least—where there were a number of dealers, I called on a proportionate number of dealers in the town, all the way from one dealer

to as high as ten or fifteen dealers; that is to say, I verified the information.

Q. There were some towns in the district in which you are intimately familiar?

A. Yes, sir; I knew the conditions before I went into a town, but I merely went into the town to simply make sure that I knew the conditions.

Q. You did not just take your agent's word for it?

A. No, sir; I did not even take my own word for it.

Q. In how many of these towns that you investigated is there only one wholesaler of magazines?

A. Seventeen.

Q. Now, of those seventeen, where there is only one wholesaler, in how many towns does he handle only the Curtis magazines?

A. Six.

Q. How many of your agents wholesale only Curtis magazines—I am not counting papers, now.

A. Eighteen.

Q. How many of them began business with the Curtis Publishing Company?

A. Twenty-nine.

Q. In how many of your towns where the Curtis agent handles other magazines is he the only wholesaler?

A. Eleven.

Q. And how many of your agents do not do any newspaper wholesale business?

A. Seventeen.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Will you name the eleven towns you testified about?

A. Eleven towns where the Curtis agents handle

other magazines and they are the only agent in the town?

Q. Yes.

A. Coldwater, Grand Haven, Hillsdale, Muskegon, Niles, Pontiac, St. Joseph, Three Rivers and Allegan, Michigan.

Q. Will you give me those reports? So, you saw a certain number of people personally in these towns, and you were very familiar with the district?

A. Quite so.

Q. How many of these eleven agents or eleven towns where your agent was the only wholesaler was he under the new contract?

A. Nine of the eleven.

Q. Will you name them?

A. Those that are under it?

Q. Yes.

A. Coldwater——

Q. Name the ones that are not. That will simplify it.

A. Grand Haven and Muskegon.

Q. Are they old dealers there?

A. Yes, sir.

Q. Who are they?

A. At Grand Haven is the Reichart Book Shop, Mr. Reichart, proprietor, and at Muskegon, E. J. Durham.

Q. The rest are under the new contract?

A. Yes, sir; there is still one other town in my territory not under contract.

Q. What is that?

A. Bay City, Michigan.

Q. Is your man the only dealer there?

A. No, sir.

Q. Why have you not put the Bay City man under contract?

A. I was out of my territory for a little time doing some special work, and there was a change necessary to be made in Bay City from our old agent, due to the fact he was unable to carry on the work longer. He was entirely foreign to the nature of the work; he was an employe of the post office, and a transfer was made to a party by the name of Harold Kays. Harold Kays is a boy about eighteen years or nineteen years old, and he works in the office of the Building Loan Association there. He never was in the magazine wholesale business before, although he had sold Curtis magazines on a retail basis. I went up there and got the thing lined up and got things working fine. I found he had been wholesaling other publications from the time he started up till about, I should say, three months or so—possibly not quite that long ago, together with his brother, also a P. J. G. boy—his brother had taken the wholesale agency for the Crowell group, I know, and I am not positive but I believe also the "Pictorial." His brother was a boy named Cyril Kay. At the time of my next visit to Bay City, when I went up there to put Harold under the new form of agreement, I found out those Crowell group and Curtis group were being put out from the same little shack. It is a little bit of a place about half again as big as this table (indicating), and with no room at all for boys to get into it. It was an old popcorn stand, and conditions were so that I did not desire it and I told Harold so. I told him there would have to be a total separation of the two agencies.

Q. You just changed them?

A. I did not change them at all. Cyril, the brother, has rid himself of the Crowell agency, and there is another wholesale magazine dealer handling Crowell in the town now, and, of course, I will put the boys in under the new form of contract when I return to Bay City, provided everything is satisfactory.

Q. Who was on the contract with you?

A. Harold.

Q. Cyril was not under contract with you?

A. He was running our business for his brother practically altogether. His brother was too busy in his office and Cyril was in school, and he waits on the boys Thursday afternoons.

Q. Now, at Holland, Michigan, your agent is Mrs. L. Friske, and she handles the Curtis group, Hearst group and the Munsey group and is the largest wholesaler of magazines there, is that correct?

A. Yes, sir.

Q. Now, Stacitti Sons handle "Pictorial Review"; how long have they been handling that?

A. I do not know positively, but I am under the impression since the first of the year.

Q. Prior to that time, however, Mrs. Friske was the only wholesale dealer there, is that correct?

A. If my pink sheet so states, it is so.

Q. That is what it shows. Do you know she ever handled the "Pictorial Review"?

A. On a wholesale basis?

Q. Yes.

A. I do not think so.

Q. Do you know whether she was requested to handle it?

A. I could not say.

Q. How big a place is that town?

A. Do you want an answer to that question?

Q. Yes.

A. Twelve thousand.

Q. At Coldwater, Michigan, your agent handles the Curtis group, the Hearst group and is the only wholesaler there; how long has he been the only wholesaler there?

A. Oh, a number of years.

Q. He is still your agent and has been put under the new contract?

A. Yes, sir.

Q. When did you put him under that contract?

A. Since the first of the year, I believe.

Q. How large a place is Coldwater?

A. Six thousand, approximately.

Q. And Muskegon, Michigan, how big a place is that?

A. Muskegon is approximately twenty-six thousand.

Q. And E. J. Durham is your agent?

A. Yes, sir.

Q. And handles, besides your magazines, the Hearst group, "Pictorial Review," "Munsey" and practically every magazine handled by Unit Nine—what do you mean by that?

A. The American News Company.

Q. Does Durham handle the "Pictorial Review" now?

A. Yes, sir.

Q. And you have permitted him to handle it?

A. Yes, sir.

Q. What did you say to him about it when you found him handling "Pictorial Review"?

A. Nothing, because I found he was wholesaling the "Pictorial Review" for a number of years, drawing from the News Company, along with his other magazines; in fact, he was wholesaling the "Pictorial Review," if I am correct—and I think I am—he was wholesaling "Pictorial Review" even previously to ours, and thereby had the right to continue to wholesale it?

Q. You did not object to it?

A. Not if he was wholesaling the magazine previously to wholesaling ours.

Q. Is he under the new contract?

A. Not as yet.

Q. You are going to put him under it?

A. I intend to.

Q. How long has he been your agent?

A. Our agent?

Q. Several years?

A. Yes, sir; oh, my, yes.

Q. Five years, do you think?

A. Yes, sir; more than that.

Q. Have you ever had any instructions from the home office with reference to a situation like this, where your man handles the "Pictorial Review" or some other magazine—handled it prior to the time of taking on your magazines?

A. Our contracts explain that.

Q. Your new contract has that in it, has it?

A. I would not say offhand, without referring to the new contract. I know the old one did. Yes, the new one shows that.

Q. You think the new contract explains that?

A. I think so.

Q. And that would be true in the case of men who are wholesaling through the American News Company, other magazines?

A. Previously to ours?

Q. Yes.

A. I always believed that.

Q. That is your notion about it?

A. Yes, sir.

Q. Did I ask you about St. Joseph, Michigan?

A. Not as yet.

Q. Your agent seems to be Gordon & Walter, and they handle "Hearst's," "Munsey's," besides yours?

A. Yes, sir.

Q. Do you know how long they have been there?

A. A number of years.

Q. Are they under the new contract?

A. Yes, sir.

Q. They were under the old contract, of course?

A. Yes, sir.

Q. And they are the only wholesalers in that town?

A. Yes, sir.

Q. And were when you made this investigation?

A. Yes, sir.

Q. At Three Rivers, Michigan, Frank Shoemaker handles your magazines, the Hearst publications and "Pictorial Review"?

A. Not any more. I made a change there since that investigation.

Q. What change did you make?

A. I appointed a new district agent.

Q. Do you know how long he had been there?

A. You mean the news agent?

Q. Shoemaker.

A. Shoemaker has been there for years.

Q. Do you know when he took over the "Pictorial Review"?

A. Very recently—since the first of the year.

Q. When you found that out, what did you do?

A. I changed the agency.

Q. Gave it to whom?

A. To a boy there by the name of Charley Hagan.

Q. At Niles, Michigan, Walton Brothers handle the Munsey publications and your group?

A. Yes, sir.

Q. And are the only people there?

A. The only wholesalers of magazines, I believe.

Q. And how long have they been there—do you know?

A. Years.

Q. And during that period they were the only wholesalers there?

A. I believe so.

Q. How big a place is Niles?

A. Approximately six thousand.

Q. Now, at Pontiac, Adams is your man, and handles "Hearst's" and "Munsey's"?

A. Yes, sir.

Q. How long has he been there?

A. For years.

Q. Is he under the new contract?

A. He is.

Q. How big a place is Pontiac?

A. Practically eighteen thousand.

Q. How many retailers there?

A. Adult dealers?

Q. Yes.

A. I cannot say. I do not even know if I could give you a correct approximate figure. I should say, however, about fifteen to twenty.

Q. He is the only wholesaler of magazines there?

A. No, sir; he is not.

Q. He was at the time of this investigation?

A. Yes, sir—pardon me. I cannot take myself back to that period.

Q. Do you know whether Adams was ever asked to handle the "Pictorial Review"?

A. I do not know whether Adams was or not.

Q. Or the Crowell publications?

A. I cannot say. A boy was handling them who either worked for Adams or else Adams had it himself. I cannot say without referring—if the sheet does not show it——

Q. You say Adams had it?

A. No, I do not say Adams had it. I say a boy who worked for him had it.

Q. Did you stop the boy?

A. No, sir; I had nothing to do with that.

Q. He still handles it?

A. He handles "Pictorial." I am under that impression. I do not know the boy personally. That is what Adams told me.

Q. As a matter of fact, do you know whether he distributes through Adams?

A. What?

Q. As a matter of fact, do you know whether he distributes through Adams?

A. I know he does not.

Q. What does this boy do?

A. He is the agent for the "Pictorial," and, I believe, the Crowell publications.

Q. What else does he do?

A. I do not know. I do not know the boy personally.

Q. At Grand Haven you have the Reichart Book Shop, and that concern handles the Hearst group and "Munsey's" and "Collier's"; you have here the "Pictorial Review," "Red Book," "Blue Book," "Green Book," "Woman's Home Companion" and the American Magazine." He was the only wholesaler there when you were there?

A. Yes, sir; at that time.

Q. How long had he been there?

A. A number of years.

Q. An old representative of yours?

A. Yes, sir; starting in with our magazines.

Q. Did you say anything to him about cutting him off because he was handling "Pictorial"?

A. No, sir.

Q. Does he still handle "Pictorial"?

A. No, sir; not on a wholesale basis.

Q. What did you do about that?

A. Mr. Reichard told me that he had heard that a number of agents in the State had been changed and I asked him or he asked me why, and I said, "Well,

they received thirty days' notice in most cases and I received a letter of instructions to change them, and I did change them according to my instructions." He said, "Don't you know why?" And I said, "Those are the instructions I received." I kind of smiled, and I said, "Do you know why?" He said, "I have a very good idea." He says, "I do not want my agency changed." I said, "You know what to do, I presume, so everything will be awfully nice." And he said, "I believe so." And I called him up about it some little time after that and I asked him if he was still wholesaling "Pictorial" and the "Woman's Home Companion," and he said, "No, I am not; I advised my dealers in town that I would discontinue handling it and they could get their magazines from the news company at Grand Rapids."

Q. How many dealers were there in that town?

A. Oh, I should say seven or eight or something like that.

Q. And he told you that he was about to quit handling it?

A. Voluntarily; yes, sir.

Q. Is he under the new contract?

A. Not as yet; I have not had time to get back. I intend to put him under that.

Q. Did you talk to him about it?

A. I sent him word that his new contract was not ratified and the cash security was refunded.

Q. That was on account of handling "Pictorial Review"?

A. Yes, sir; after handling ours.

Q. If you find he continues to handle them you will, of course, change the agency?

A. I know, of course, he is not handling it.

Q. At Hillsdale, Michigan, you have an agent there, and your agent handles the "Collier's," your

group and "Pictorial Review"; how long has this man handled "Pictorial Review"?

A. He was handling "Pictorial Review" previously to handling ours.

Q. He is another case like you described this morning?

A. Yes, sir.

Q. You do not object to that—is that true?

A. No, sir; I do not.

Q. And he still handles it?

A. He is, from last reports.

Q. Now, he is the only man there handling magazines, is that correct?

A. Wholesale; yes, sir.

Q. Is he under the new contract?

A. Yes; I think he is.

Q. When did you put him under that, do you know?

A. No; I think it was previously to the first of the year.

Q. Is he an old agent there?

A. Of ours?

Q. Yes.

A. Not what I would call an old agent.

Q. When did he take on your group?

A. I can tell you if I can look at my data sheet.

Q. Did you appoint him?

A. Do you want an answer to your question?

Q. Yes.

A. September, 1917.

Q. When you appointed Monroe, he was handling "Pictorial Review," was he not?

A. Yes, sir.

Q. You have never objected since?

A. No, sir; I have not objected; no.

Q. Do you know whether the "Review" objected to his handling your magazines?

A. They would not have told me so if they did. I have no way of knowing that.

Q. Do you know?

A. Absolutely not.

Q. Will you name the instances in which you made changes in agents in the last two years on account of other publications?

A. On account of other publications?

Q. Yes.

A. I made a list here, Mr. Daly. I do not know if I have all the towns due to that cause, in the last two years, but I believe the list includes them all. There was Adrian, Mich.——

Q. What change did you make there?

A. Due to our own agent handling "Pictorial."

Q. When did you do that?

A. I have not the date here.

Q. About when?

A. Since the first of the year.

Q. The first of this year?

A. Yes, sir.

Q. What else?

A. Mt. Clemens.

Q. What happened there?

A. I changed, due to the same reason.

Q. On account of the "Pictorial Review" and Crowell?

A. Yes, sir; one of the two, or both. I am not satisfied which one it was; it was one of the two groups or both.

Q. Name the others.

A. Port Huron, Three Rivers, Kalamazoo and Battle Creek.

Q. You put them under the new contract in those places?

A. Yes, sir.

Q. You changed them because they handled other publications and were violating your contract?

A. What is that?

Q. They were violating your contract?

A. We considered that they were.

Q. At Grand Rapids, what happened there?

A. Our agent resigned.

Q. Who was he?

A. Ted Shaw.

Q. Do you know whether or not you had advertised for a new agent before Shaw resigned?

A. Yes, sir.

Q. He testified in this case?

A. Mr. Shaw did, at Detroit.

Q. Why did you advertise for a new agent? Did you know he was going to resign?

A. No; we knew we were going to change him.

Q. It was a matter of getting him out?

A. No, sir; it was not. He just made it a little easier.

Q. He handled "Pictorial Review" and you objected?

A. Yes, sir; he knew we did. We had told him so and he resigned.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. At Adrian, who was your agent?

A. Chalmers.

Q. What does he do?

A. He has a candy store, newspapers and magazines.

Q. He is in the wholesale magazine business?

A. Yes.

Q. For publications other than the Curtis publications?

A. Yes, sir.

Q. Whom did you change to?

A. A boy by the name of Smith.

Q. Was he in the wholesale magazine business before?

A. No, sir.

Q. Does he handle any newspapers at all wholesale?

A. I would rather have my sheet on that—yes, he handles the "Chicago Examiner."

Q. At Mt. Clements, whom did you change from?

A. I changed from a party by the name of Lefever, and—I do not know the other party's name. I would rather see my sheet on that—I find it is from F. E. Williams, instead of Lefever.

Q. Williams was your old agent?

A. Yes, sir; and I changed to a party named W. L. Preston.

Q. What business was Preston in?

A. He was a representative of the "Detroit News," and also an employe of the News Company in a roadman's capacity.

Q. Did he handle magazines at wholesale?

A. No, sir; none at all.

Q. Before you gave him your contract, did he handle any other magazines at wholesale?

A. No, sir.

Q. You found him willing to enter the field and take up this work?

A. Very glad of the opportunity.

Q. You have had to change agencies a great many times. Have you had any difficulty in getting agents?

A. Not at all.

Q. Have you, throughout your district, applications constantly on file for agencies?

A. Yes, sir; just in Grand Rapids, as an illus-

tration, there is a party by the name of Todd who has been continually 'phoning my home—I am living in Grand Rapids—and he wants me to get in touch with him in regard to an agency. But we are satisfied with our present agents and are willing to let well enough alone.

Q. In Three Rivers, Shoemaker used to be the Curtis agent?

A. Yes, sir.

Q. He has been changed?

A. Yes, sir.

Q. He is the big magazine wholesaler there?

A. He is the only wholesaler in that town.

Q. And was at that time?

A. Yes, sir.

Q. He also wholesales Chicago and Detroit newspapers?

A. Yes, sir.

Q. And is the only newspaper wholesaler there?

A. Yes, sir.

Q. And he had a large business?

A. He had the wholesale magazine and newspaper business sewed up.

Q. You have taken your agency away from him?

A. Yes, sir.

Q. Have you had any difficulty in getting anybody to serve you?

A. No, sir; it is the smallest town, too, in my territory, and generally the smaller the towns are the harder it is to get an agent to handle the agency.

Q. Tell me about Adrian, Michigan, now. How many newspaper wholesalers are there in Adrian, and what newspapers do they handle?

A. L. W. Smith handles the "Chicago Examiner," Steinmetz & Keane handle the "Detroit Free Press," W. H. Chaloner & Company handle the "Detroit News"——

Q. Now, take Grand Haven; how many newspaper wholesalers are here in Grand Haven? What papers do they wholesale?

A. There are three newspaper wholesalers in Grand Haven—J. J. Mulzer, handling the "Chicago Tribune" and "Herald"; H. Bol, handling the "Grand Rapids Press," and Eert Fant, handling the "Grand Rapids Herald."

Q. And Reichard is the only magazine wholesaler?

A. I believe so.

Q. At Pontiac, Adams is the Curtis agent, is he not?

A. Yes, sir.

Q. How many newspaper wholesalers are there there?

A. Well, there are three newspaper wholesalers also in Pontiac: V. H. Adams, handling the "Chicago Tribune" and "Examiner" and "Detroit Journal," and Walter Blair, handling the "Detroit Free Press," and E. W. Carvey, handling the "Detroit News."

Q. You said you made a change at Kalamazoo?

A. Yes, sir.

Q. Who was the old agent?

A. The Kalamazoo News Company, run by Mr. C. C. Hall and a partner of his named Hitchcock.

Q. They had nothing to do with the American News Company?

A. No, sir.

Q. You changed because of their handling "Pictorial Review"?

A. Yes, sir.

Q. To whom did you change?

A. I formed a partnership with two boys, one of them the son of the secretary of the Y. M. C. A. in that town, and the other the son of a prominent dentist in that town.

Q. They were not engaged in the wholesale business before that?

A. They were both high school boys.

Q. And the Kalamazoo News Company is and was the big magazine wholesale establishment in that town?

A. Yes, sir; and still is.

Q. At Port Huron you made a change?

A. Yes, sir.

Q. To whom did you change?

A. From the Mills News Agency to Mrs. Henrietta Randall.

Q. Did she ever wholesale magazines before?

A. No, sir.

Q. You persuaded her to go into the business and take up your papers?

A. Yes, sir.

Q. There are newspaper wholesalers in Port Huron, aren't there?

A. Yes, sir.

Q. Can you give me the number?

A. There are three: the Mills News Agency, handling "Pictorial Review," the "Detroit Free Press" and "Journal"; W. Lockwood, handling the "Chicago Examiner" and "American," and Mrs. H. Randall, handling the "Detroit News."

Q. How about Battle Creek?

A. There was a change there due——

Q. You changed there, did you not?

A. Yes, sir.

Q. Who was the old agent?

A. The Battle Creek News Agency, run by Mr. Dreher.

Q. Was that the principal wholesale establishment handling magazines there?

A. Yes, sir.

Q. To whom did you change?

A. To two boys by the name of Howze Brothers, school boys.

Q. Had they ever had any wholesale magazine experience before that?

A. No, sir.

Q. So, you changed from an established wholesaler to these boys, is that correct?

A. Yes, sir.

Q. You were asked by Mr. Daly whether the "Pictorial" objected to their agency handling Curtis magazines, whether they objected to your agent wholesaling their magazines, the Curtis magazines.

A. Yes, sir.

Q. Have you ever heard of such an objection on the part of the "Pictorial Review"?

A. No, sir.

MR. MILBURN: That is all.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. In how many instances or cases in your territory where you made changes did you take on newspaper dealers?

A. I could not say without going over my sheets.

Q. Did you in any case do that?

A. Yes, sir; I just named Port Huron. There was one.

Q. You went to a newspaper man?

A. No.

Q. I mean dealers that handle nothing but newspapers.

A. I went to a lady handling newspapers.

Q. That is the same thing.

A. I met the roadman for the "Detroit News" up there, Mr. Stuart. He was, at that time, getting in touch with Mrs. Randall, relative to her taking the agency. He had been up there three months running

it himself, and I told him that I also was looking for a new agent. He said: "I tell you what to do. You put your agency proposition up to Mrs. Randall; it might appeal to her strong enough to make her take it," and I said, "All right, it will make her a stronger dealer," and I saw her and she said she was prepared to take it on, and I met him later and told him about that. I talked to her really before she took on his agency, but, as a matter of fact, she was handling his paper two or three months before she actually began to wholesale our magazines. So, while we had practically engaged her previously to her handling this newspaper, as a matter of fact she was actually handling it before she became our district agent.

Q. Did she have a force of boys—newsboys?

A. I do not know anything about the newsboys.

Q. What did you do about boys in that case?

A. In what case?

Q. In her case.

A. I do not know just what you mean.

Q. What did you do about boys?

A. Oh, they all joined with her.

Q. They all went to her?

A. Yes, sir.

Q. Do her boys handle your publications and newspapers?

A. Why, I do not know. There might be one or two newsboys handling our magazines, and just the same as we might have one or two of our boys handling newspapers, but to which one they originally belong I do not know.

Q. You would not object to that—if there were newsboys who could sell your papers you would permit them to do so?

A. Yes, sir; just as we would allow some of our boys to handle her newspapers. If she had a Sunday

route, and it was a good one, I would help her get the boys. It would be good business.

Q. It would mean more for the boys?

A. Yes, sir; in that case it would.

Q. When she took on this Curtis business, she, having the newspaper business, of course that made her agency that much stronger and she made more money by taking on your agency?

A. Taking the two of them together; yes.

Q. And handling those newspapers would not interfere with your business, would it?

A. No.

Q. She could handle both of them, could she not?

A. She is doing it.

Q. And that would hold true in all similar cases, would it not?

A. Not necessarily—that would not follow necessarily.

Q. In the same case where they had a news business like that?

A. Well, if she threw out the "Detroit News" and took on the "Tribune," it would hold true, but if she took on the "Tribune" in addition, making two newspapers, that would not be so.

Q. That is not the same situation?

A. No; in the ordinary sense it would not be. According to the letter, it might be.

Q. In the case where conditions are exactly similar——

A. Where she had just one newspaper and one magazine——

Q. How many papers has she?

A. One newspaper, and our group of magazines.

Q. Where there was an agent handling a newspaper, they could readily handle anything else, could they not?

A. If their facilities were adequate and they had the time.

Q. What facilities has she?

A. For delivery, you mean?

Q. Yes.

A. Her sister has a machine and she drives her to get out early Sunday and help her on the delivery, and she hires a truck on Sunday morning. She does not own it. Of course, anybody could hire a truck, and she also has boys who help her. Of course, also, anybody could find boys in a town to help out.

Q. How many retailers are there in that town?

A. Port Huron?

Q. Yes.

A. I should say it approximates twenty-five—I could not say offhand—maybe more.

Q. Then, if a newspaper man was handling two or three papers, you would not permit him to handle the "Posts" and "The Ladies' Home Journals"? Is that the fact? You would not do that?

A. I did not say that.

Q. That is the effect of what you said?

A. No; it is not the effect of what I said at all. We were talking of Port Huron.

Q. Where do you draw the line?

A. Wholly and solely according to the facilities that they had to handle it and the time.

Q. If an agent was handling five or six newspapers and had the facilities to handle them and your magazine, you would take them on—is that correct?

A. If they were the type that I consider the Curtis type.

Q. If they were good hustlers?

A. If they are the man or woman I am looking for as the Curtis type—that is, taking everything into consideration, the time they have and facilities, and the nature of them themselves, in so far as boys are concerned——

Q. A lot of these newspaper people would make good Curtis agents, would they not?

A. A lot?

Q. Yes.

A. In my territory, you mean?

Q. Yes, and do, as a matter of fact.

A. I really feel, Mr. Daly, that in the majority of our towns in my territory if I am going to appoint a Curtis agent I would rather have, at this time, I believe, in the majority of my towns, a person not wholesaling newspapers or magazines.

Q. Now, then, you do promotion work, do you not?

A. I am supposed to.

Q. Just what work do you do in your territory?

A. Well, I call on the agents. I get around to my D. A. towns once in about every three or four months, and from time to time I call meetings with the boys in the towns, and start local contests—prize contests—furnishing the prizes as given by the Curtis Publishing Company.

Q. Under their plan of offering prizes?

A. Prizes in local contests, and I call on the school superintendents and get in touch with them and get acquainted with them and acquainted with the Y. M. C. A. officials, with a view to working our boys into the Y. M. C. A. as much as possible, and do everything and anything that will promote the sales of our publications.

Q. And besides that, you see the retailers, do you not?

A. Yes, sir.

Q. What do you do when you go around to the retailers?

A. There is nothing you can do with the retailers. About all I do with the retailer is to call on him and see that we get the right kind of display and see that they are supplied well. If I find that a dealer is fur-

nished with an insufficient supply of "Posts" and he is sold out on Saturday nights, I see that the defect is corrected.

Q. That is an important part of your business?

A. Yes; it is a small part.

Q. It is quite important to keep tab on the retailers?

A. It is important. You ask if it is the important thing.

Q. I do not think I said the.

A. I thought you said that.

Q. I asked if it was important.

A. I consider it important. I would not do it otherwise.

Q. That, of course, assists in the increase of your circulation?

A. I suspect it does.

Q. Or you would not do it?

A. No, sir.

Q. You teach boys to sell your magazines, too?

A. That is our aim.

Q. How many master salesmen have there been in your district in the last few years?

A. In my territory?

Q. Yes.

A. I do not know offhand. I think I can get that information for you in a short while.

Q. No; I do not think it is important.

A. I should say as to master salesmen at the present time I think there are two, and possibly three.

Q. When were they designated as such?

A. If there are three, one has just been promoted to the master salesman class this month, a Detroit boy, and we have another Detroit boy who is a master salesman. Those two are two that I know of, and I am not positive, but I think we have another one, but I cannot recall now.

Q. Prior to the last two years, you have not had many master salesmen in your district?

A. Yes; I tell you, Mr. Daly, by the time a boy becomes a master salesman, as I have found it in my territory, they are drawing near the close of their high school work, and after they get through with their high school work, they naturally pass out of the Curtis line and pass into some line that their Curtis work has fitted them for; for illustration, I had a master salesman in Saginaw by the name of Porter Fried——

Q. I did not ask for the name of the boys.

A. I want to tell why we lose the boys. He was a master salesman for probably nine months, when he graduated from the high school. He was handling our publications in that city as a branch station for our regular district agent, and at the present time he is now the wholesaler of the Hearst magazines, the Crowell, "Pictorial" and Detroit newspapers and other papers, and I naturally feel that he was given that agency—that is, given a chance to buy the agency —because of the experience gained through his work as a master salesman—the experienc which brought him up through the various grades to that of the master salesman class. That is how it works out.

Q. How many boys are there in your whole district?

A. How many boy sellers?

Q. In your district; yes.

A. I would not attempt to give you that figure.

Q. Two or three hundred?

A. Nearer two thousand—probably a thousand or fifteen hundred.

MR. DALY: That is all.

By MR. MILBURN:

Q. Your district only covers twenty-six towns?

A. No.

Q. Will you give me the right number?

A. I cannot do that offhand. I think, though, it is about forty.

Q. Your own district?

A. Yes, sir; that is the towns I covered merely in this investigation, but I have about forty D. A. towns.

Q. Your master salesman is the head—the top rank—in the Curtis League, is it not?

A. They go as far as they can go when they hit that mark. That is the highest honor they can be given.

Q. Throughout your district, some of the boys are League members?

A. A number of them.

Q. And expert salesman is the intermediate rank?

A. The second highest rank. I believe there is another master salesman at Battle Creek—Edwin Forham.

Q. Do you know how many League members you have in the district also?

A. Altogether, counting all ranks, there is probably—oh, there must be around thirty-five or forty. There must be close on to twenty in Detroit alone.

MR. MILBURN: That is all.

By MR. DALY:

Q. In your district you have never heard of any magazine publisher objecting to any dealer handling any other magazine except their own magazine?

A. Any other publisher of magazines, you mean?

Q. Yes.

A. Why, I cannot call it to mind, Mr. Daly, if I did.

MR. DALY: That is all.

By MR. MILBURN:

Q. These boys generally are school boys, are they not?

A. Yes, sir.

Q. What proportion of them, roughly speaking, handle just Curtis magazines?

A. Of all my boys in the territory, I can safely say ninety-nine or ninety-eight per cent. of them.

Q. Some of them may handle newspapers?

A. Yes, sir.

Q. Have you ever objected to that?

A. Absolutely not.

Q. Is it not true there are some who have customers who may want a copy of "Collier's" or any other magazine, and they say they will go and get it for them and deliver it to the customer?

A. Yes; I have seen a boy buy a copy like that.

Q. Have you ever objected to that?

A. I have not. I do not encourage it by any means. I do not say, "If you have one customer for that magazine you can go out and get more," but I do not object.

Q. It is an incident in their business?

A. Yes, sir; it will happen this week and might never happen again with that boy.

Q. If a boy made a business of it, he could not devote his proper attention to Curtis magazines, and you would object in that case?

A. I would object, as far as it rested in my authority to object to it. I would show him how he was losing money by dabbling in some other line.

W. L. Earnshaw, recalled as a witness on behalf of respondent, having been duly sworn by the Examiner, testified as follows:

Re-Cross-Examination.

By Mr. Spiess:

Q. In some of the towns in which you made an investigation you have put on here, "Holl list verification by 'phone."

Mr. Welch: That is the newspaper.

Mr. Spiess: I am just coming to that.

By Mr. Spiess:

Q. And in some—on the pink sheet, and in some instances, you say, "Personal observation through frequent visits to city." Now, what we would like to know is whether or not you verified the situation contained on the pink and white sheets by 'phone, or whether by personal visits.

A. Let me see if I understand that perfectly correct before I attempt to answer it.

Q. You take those sheets there (handing papers to the witness).

A. On the pink sheet, in towns in my own territory, I knew the wholesale situation there. The white sheets covering the newspapers, I was not so familiar with that situation, and of course, could not depend upon my familiarity with the town and trust myself to give a correct answer.

Q. Yes, but now what I want to get at is this, your report shows a certain date and shows conditions on a certain date. Did you visit those towns on that date, or was it by telephone that you entered that data on that date? That is what I am getting at. In other words, did you visit those thirty-one towns recently to make this investigation personally, or by 'phone?

A. Well, in those sheets, in answer to question XC it shows exactly how the investigation was made, either by telephone or by personal visit.

Q. Well, in those thirty-one towns now, how did you make that investigation?

Mr. Milburn: Give the name of the town and state what you did and whether you went there.

The Witness: I see.

Mr. Welch: And distinguish between the white sheets, which cover the newspaper wholesalers, and the pink sheets which apply to magazine wholesalers.

Mr. Spiess: Well, what I mean, he can tell

whether you visited the town in this investigation.

MR. WELSH: That is exactly what he is going to do, Mr. Spiess, he is going over each town and specify the white sheet as newspaper, and what he did, and the pink sheet as magazine data, and what he did there.

MR. SPIESS: You can ask him about the magazines, but the simple question we want answered is whether or not he visited those thirty-one towns in making this report or whether the report is based on telephone and previous knowledge.

MR. WELCH: But you understand he made one character of investigation for magazines——

MR. MILBURN: Answer the question I asked, and you will get it—go through the thirty-one towns.

EXAMINER MOORE: You will have to go through every sheet to determine that.

MR. SPIESS: That is what I want him to do.

By MR. SPIESS:

Q. Just give us a list of the towns you did not visit on this investigation, that is all.

A. Oh, I see.

MR. MILBURN: Take all your towns, take the whole bunch.

RE-RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Now, how many reports have you got in your hand?

A. Thirty-one.

Q. How many?

A. Thirty-one.

Q. And of those towns, how many did you make a personal investigation?

A. Those are all telephone towns, thirty-one towns.

Q. Have you been in any of them?

A. Oh, yes; but not to make this investigation.

Q. How did you make your investigation?

A. By telephoning our district agent in the town, which information I have, and finding out from him who the various magazine wholesale dealers were, other than himself, then telephoning to the other wholesale dealers, if there were any, and verifying what our district agent told me; then telephoning to the retail dealers in the town and verifying what each of the others—or each of the wholesalers, told me.

Q. Well, now, here is a town, Eveleth, which is one of the thirty-one you mentioned.

A. Yes.

Q. On your pink slip you make the notation that you gained your information with reference to magazines by personal observation. Have you been in Eveleth?

A. Well, that is by personal observation or previous visits. Personal knowledge of the towns.

Q. You have been in Eveleth, haven't you?

A. Oh, yes; fifty times.

Q. It is in your district?

A. It is one of my regular towns.

Q. And you know it intimately?

A. Yes. There are only seven houses on the main street.

Q. You are not trying to create an impression here that you have never been in Eveleth, and had to get the information by telephone?

A. No.

Q. How about Crookston; ever been there?

A. Many times.

Q. Know the situation there?

A. Absolutely.

Q. Know the wholesaler?

A. Everyone in the town.

Q. The people engaged in the magazine business?

A. Yes, sir.

Q. Ever been in Red Wing?

A. I am fairly familiar with it, been there numerous times.

Q. Been there within the last year?

A. Oh, eight or ten times the last year.

Q. Is that one of the thirty-one?

A. Yes, sir.

Q. All of those I am naming are of the thirty-one?

A. Yes, sir.

Q. Ever been in Rochester?

A. Many times.

Q. Familiar with the circumstances there?

A. Fully.

Q. Ever been in Brainerd?

A. Many times.

Q. St. Cloud?

A. The same thing applies—my own territory—thoroughly familiar.

Q. How long since you have been in St. Cloud?

A. Two weeks ago.

Q. Two weeks ago. You are reasonably familiar with the situation in St. Cloud, aren't you?

A. Very, very much.

Q. DuQuoin, been there?

A. I have been there just once.

Q. When was that?

A. That was at the time—no, I have never been in DuQuoin. I made this investigation from some town located right near DuQuoin, I believe Centralia, if I remember rightly.

Q. You made your investigation there by telephone?

A. By telephone.

Q. Ever been in Fairmount?

A. Many times; thoroughly familiar with the situation there.

Q. Part of your own district?

A. My own territory.

Q. That you supervise yourself?

A. Yes, sir.

Q. You did not have to rely on the telephone for that information about Fairmount, did you?

A. No; I knew everything about it.

Q. How about Hibbing?

A. Hibbing—my own territory—thoroughly familiar with it.

Q. Austin?

A. My own territory.

Q. Been there?

A. Have been there several times in the last six months.

Q. So that you did not rely entirely on the telephone for your information about Austin, did you?

A. No, sir.

Q. Mount Vernon, ever been there?

A. I have never been in Mount Vernon.

Q. You made a telephone inquiry there?

A. Yes.

Q. You put "verified Holl's list"?

A. Yes, sir; verification of the Holl list.

Q. Ever been in Northfield?

A. That is my own territory; thoroughly familiar with the situation there.

Q. Little Falls, ever been there?

A. My own territory, thoroughly familiar with the situation.

Q. Ever been there?

A. I have been there many, many times.

Q. How about Owatonna?

A. Owatonna, my own territory; been there many, many times; thoroughly familiar with the situation.

Q. The sources of your information with reference to that town were not confined to the telephone?

A. Not in any way.

Q. Marion, ever been there?

A. Never have been to Marion.

Q. Telephoned there and got the information?

A. Telephoned there and got the information.

Q. Virginia?

A. My own territory; thoroughly familiar with it; been to the town several times in the last four or five or six months.

Q. Ever been in Pontiac?

A. I have never been in Pontiac.

Q. Got your information by telephone?

A. By telephone.

Q. Is the same thing true with reference to Pana? Have you ever been there?

A. That is telephone—secured the information by telephone.

Q. Ever been there?

A. Pana? Never have been there.

Q. Ever been in Auburn?

A. Not on this investigation.

Q. Ever been there?

A. This is telephone.

Q. Have you ever been in Auburn?

A. Not on this investigation.

Q. I didn't ask you that.

A. Yes; I have been there.

Q. When were you there?

A. Three or four years ago.

Q. Well, you have been in the place; do you know the agent there?

A. No, sir; I don't.

Q. I asked you about Rochester, didn't I?

A. Rochester, Minnesota? No, this is Rochester, Indiana, it is a telephone conversation.

Q. Ever been there?

A. Never have been there.

Q. Warsaw?

A. Never have been there.

MR. DALY: By telephone?

THE WITNESS: Yes, by telephone.

By MR. MILBURN:

Q. Faribault?

A. Thoroughly familiar, my own territory; been there several times in the last year.

Q. Fergus Falls?

A. My own territory; thoroughly familiar with the situation, and visited it very frequently in the last six months.

Q. Ever been in Carbondale?

A. Never have been in Carbondale—telephone conversation.

Q. Ever been in Clinton?

A. That is Clinton, Iowa, or Illinois, or where? It covers five states.

Q. Clinton, Illinois.

A. Never have been there.

Q. That you did by telephone?

A. That I did by telephone.

Q. Is the same thing true with reference to Angola; is that a telephone or have you been there—Angola?

A. Telephone conversation; never have been in the city.

Q. Ever been in Winona?

A. My own territory; thoroughly familiar with the situation; visited the town.

Q. Been there recently?

A. Been there three times in the last three months.

Q. Charleston, ever been there?

A. Never have been there—telephone conversation.

Q. Who is Mr. White?

A. Who?

Q. Who is Mr. White, of Charleston?

A. He is the Curtis agent.

Q. You had a talk with him about the situation in Charleston, did you?

A. No, I met Mr. White in another town.

Q. Did you have a conversation with him, I asked you?

A. Yes.

Q. I don't care where it was; you had a conversation with him?

A. Yes; I talked with him personally.

Q. He told you about the situation in Charleston, is that right?

A. Yes.

Q. Ever been in Chisholm?

A. That is my own territory; thoroughly familiar with the situation there; have visited the town several times in the last year.

Q. International Falls, ever been there?

A. Been there several times in the last year.

Q. You are familiar with the situation from your own knowledge?

A. Thoroughly familiar with the situation.

Q. How about Grand Forks, North Dakota?

A. Yes.

Q. Now, I hand you a list of your remaining cities, and I will ask how many of them you—you have given thirty-one, you investigated how many?

A. Fifty-five.

Q. Thirty-one from fifty-five, it is admitted he has been——

MR. SPIESS: His report shows that, yes.

By MR. MILBURN:

Q. Have you been in all? Look your list over (handing paper to the witness).

MR. SPIESS: He did not answer about Grand Forks, Mr. Milburn.

THE WITNESS: It is my own territory. I have been there several times in the last year; thoroughly familiar with the situation in the town.

(The witness examined papers handed to him by Mr. Milburn.)

I have been in all of these towns on this investigation.

MR. WELCH: How many are there there?

THE WITNESS: Twenty-four.

MR. WELCH: I think that is all.

EXAMINER MOORE: Is that all, Mr. Daly?

MR. DALY: That is all.

EXAMINER MOORE: We will take a recess until 2 o'clock.

(And whereupon, at the hour of 12.25 P. M., of said day, May 22, 1918, a recess was taken until the hour of 2 o'clock P. M., of the same day.)

Chicago, Illinois, May 22, 1918.
2 o'clock P. M.

Met pursuant to adjournment.

Present: Same as before.

C. M. GOTT, called as a witness on behalf of the respondent, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. What is your business?

A. Superintendent of agencies for the Curtis Publishing Company.

Q. What districts do you cover?

A. At the present time, Northern Illinois and part of Wisconsin and part of Iowa.

Q. And during the last few months, at their request, have you made an investigation as to the wholesale situation in certain localities?

A. Yes, sir.

Q. Your investigation was not confined entirely to your own district, was it?

A. Yes, it has—the investigation has.

Q. You were in your own district?

A. Yes, sir.

Q. You are familiar with those towns?

A. Yes, sir.

Q. Been in them?

A. Yes, sir.

Q. And know the situation that exists in each one of these? With reference to wholesaling of newspapers?

A. Yes, sir.

Q. And magazines?

A. Yes, sir.

Q. And you know the agents?

A. Yes, sir.

Q. The Curtis agents there?

A. Yes, sir.

Q. How many towns do you cover?

A. In the investigation I covered forty-seven.

Q. How many agents is that—forty-seven agents?

A. Forty-seven agents.

Q. In the towns covered by you in your investigation, in how many of them was there only one magazine wholesaler?

A. Thirty.

Q. And as I understand in this investigation in your report you include "Pictorial" and the other magazines?

A. Yes, sir.

Q. And so in thirty there was only one magazine?

A. Yes, sir.

Q. In how many towns where there is only one wholesaler does he handle the wholesale business of the Curtis magazines only?

A. Twenty-one.

Q. How many of these agents wholesale only Curtis magazines?

A. Thirty-three.

Q. And how many of them began magazine wholesaling with the Curtis magazines?

A. Forty-one.

Q. In how many of your towns where Curtis agents handle other magazines is the agent the only wholesaler of magazines?

A. Nine.

Q. How many of your agents do not wholesale any newspapers?

A. Thirty.

Q. In collecting this information in the different towns, what did you do, go there personally?

A. Yes. I knew the circumstances in all of the towns, but some of them, right while I was doing the investigating, instead of trusting just to my own memory, in a very few cases I used the telephone.

Q. Called up to verify your impression?

A. Called up both agents and dealers, etc., in the town to verify my own mind.

Q. You have been personally in all of the towns?

A. Yes, sir; fully acquainted with the circumstances.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. There were nine towns in which your representative handled other magazines, is that correct?

A. Yes, sir.

Q. Can you name those instances?

MR. MILBURN: Would you mind my interrupting? That is not correct.

THE WITNESS: Sir?

MR. DALY: Nine instances.

THE WITNESS: There are nine towns out of the forty-seven that handle other magazines, and they are the only wholesalers in town. Is that the question?

MR. DALY: Yes, that was the question.

MR. MILBURN: But you did not say the only wholesalers.

MR. DALY: That is what I meant to say.

By MR. DALY:

Q. Now, give those nine, will you?

A. They are Bloomington, Dixon, Decatur, Lincoln, La Salle.

Q. La Salle?

A. La Salle, Peoria, Sterling, Streator.

Q. Streator?

A. Streator, and Waukegan.

Q. How many of them are in Illinois?

A. They are all in Illinois.

Q. All of them?

A. Yes.

MR. DALY: (addressing counsel for respondent): Now, may I have those reports on those nine towns?

MR. WELCH: Yes:

By MR. DALY:

Q. Now, have you been putting in the new contract in your district, Mr. Gott?

A. Yes, sir.

Q. Have you about covered the district?

A. Yes, sir.

3029

Q. And in those nine towns that you are speaking about, are they handled under the new contract?

A. Yes, sir.

Q. And how recently have you put them in?

A. Well——

Q. Within the last year?

A. Within the last three months. Now, Mr. Daly, in one of those towns, in particular, while that was in my own territory and I made the investigation regarding other wholesalers, etc., I did not put that town under contract. However, I believe it has been put under contract.

Q. Yes. Well, to the best of your knowledge, they are all——

A. It was taken out of my territory since, see?

Q. Which one was that?

A. Bloomington.

Q. But you think it is under contract?

A. I have reason to believe so.

Q. Yes. Now, in Dixon, your man who handles "'Hearst's," "Literary Digest," the Warner group, "Motion Pictures," "Motion Picture Classic," and the "Pictorial Review"—did when you made this investigation?

A. Yes, sir.

Q. And is that the situation now?

A. No, sir; we have a new agent there.

Q. What change did you make?

A. I appointed a new agent.

Q. Why?

A. On account of him handling "Pictorial Review."

Q. And when did you do that?

A. About two months ago.

Q. Now, prior to that time for a considerable period Mr. Edwards was the only wholesaler there?

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. And he handled your magazines?

A. That applies to magazines only?

Q. Yes; I am speaking now of magazines only.

A. Yes.

Q. How large a town is Dixon?

A. Ten thousand.

Q. He could have handled—Edwards was handling the "Pictorial Review" there, wasn't he?

A. Yes, sir.

Q. For some period of time?

A. Yes, sir.

Q. Did that in any way do damage to your circulation?

A. Well, I cannot say as to that.

Q. You don't know?

A. No, sir.

Q. Now, in Decatur, Illinois, W. T. McFadden was your representative and he handled, besides yours, "Hearst's," Warner's, "Collier's," "Motion Picture" and "Motion Picture Classics"; how long was he the only agent there?

A. Well——

Q. Or the only dealer?

A. I think about ten years.

Q. And now Harry McFadden handles the "Pictorial Review"?

A. Yes, sir.

Q. I notice his address is the same?

A. Yes, sir.

Q. Who is he?

A. A brother of W. T.

Q. And how long has he been handling the "Pictoril Review"?

A. Along last fall some time.

Q. Well, you permit that to go on there, do you?

A. The condition as told to me there, and as affidavits, I think, will show that have probably been brought into this, that W. T. McFadden is absolutely —he has absolutely nothing to do with the agency, either financially, deliveries or anything else.

Q. Now, McFadden is under the new contract, isn't he?

A. Yes, sir.

Q. Harry McFadden I am speaking about.

A. No; W. T. is our agent.

Q. Yes; that man of yours, that is right, he is under the new contract?

A. Yes, sir.

Q. And when did you put him under that?

A. I think in December, just before Christmas.

Q. Yes. Did you have any difficulty with McFadden about his not taking care of the Curtis publications while he was handling the "Pictorial Review"?

A. According to the information that I had, W. T. McFadden did not wholesale "Pictorial Review."

Q. I thought I saw it on your list. I may be mistaken about that.

MR. SPIESS: No; his brother had that.

MR. DALY: Oh, yes. Well, I made a mistake.

By MR. DALY:

Q. Now, at Bloomington the Bloomington News Agency represents you?

A. Yes, sir.

Q. Deals in "Hearst's, "Munsey's," Warner, "Literary Digest," "Collier's," "Motion Pictures," and recently Charles Frison handles the "Pictorial Review," doesn't he?

A. Yes, sir.

Q. And do you know how long he has been handling it?

A. No, sir.

Q. Since the break, hasn't it been?

A. I think so.

Q. Since they went independent?

A. I think so.

Q. Prior to that time that Frison went into business with the "Pictorial Review," the Bloomington News Agency was the only wholesaler there?

A. As to that I cannot say.

Q. Well, your report shows—isn't your report correct?

A. I think so.

Q. Yes?

A. I showed the two wholesalers. I was not familiar before that with the situation until I made this investigation.

Q. You did not make any inquiries about that?

A. No, sir.

Q. And is your man there under the new contract?

A. Yes, sir.

Q. When did you put him under that?

A. Now we are speaking of Bloomington, aren't we?

Q. Yes.

A. That is the one I just spoke of first that has been taken out of my territory.

Q. Oh, yes, that is right.

A. I will have to revise that answer.

Q. In whose territory is he now?

A. In Young's. Young will be at Cincinnati.

Q. Young will be at Cincinnati, will he?

A. Yes, sir.

Q. Do you know whether the Bloomington News Agency ever handled the "Pictorial Review"?

A. To my knowledge they did not.

Q. Do you know whether they ever asked to handle it?

A. No, sir.

Q. You mean you do not know?

A. I do not know.

Q. Waukegan, J. L. Price, on March 11, 1918, handled your group, Hearst's, Warner, "Literary Digest," "Collier's," "Motion Pictures," "Photoplay," and you have a note here, "Is discontinuing 'Pictorial Review' and the Crowell group today. See letter." Now, he handled the "Pictorial Review," didn't he?

A. Yes, sir; but he did so in this way: On other visits there he always insisted that he did not handle it, and it was only at the time of the investigation—it was during the hearing here in Chicago before that I really found out that he was.

Q. He testified at the hearing before?

A. Yes, sir.

Q. And since that time you have changed him, is that true?

A. Yes, sir.

Q. Prior to that time, I think, he testified that he was the only wholesaler there for some period of time?

A. Yes, sir.

MR. MILBURN: May I interject? Do you mean to state that they changed him—has that agency been changed?

THE WITNESS: Yes, sir.

By MR. DALY:

Q. Why did you change it?

A. On account of the "Pictorial Review."

Q. The contract?

A. Yes, sir.

Q. At Streator, Illinois, George Stevens deals in your magazines, "Hearst's," "Collier's," "Pictorial Review," "Motion Pictures" and the Crowell group. And that was on March 8, 1918. Now does he handle the Crowell group now?

A. I think he does.

Q. I notice here you have, "Crowell contract but he is writing canceling it at once. Insists he will not give up 'Pictorial.'" Do you know whether he did do that or not?

A. Just as that states were the facts of the matter.

Q. Did you change him?

A. Yes, sir.

Q. When did you change him?

A. About a month ago.

Q. And prior to that he was the only wholesaler there; this was March 8, 1918.

A. Yes, sir.

Q. And you have changed him, however?

A. Yes, sir.

Q. So that he is not under the new contract?

A. Yes.

Q. For a long time he was the principal agent there?

A. Yes, sir.

Q. The principal representative?

A. Yes, sir, the only one.

Q. The only one?

A. Yes, sir.

Q. Has he a good organization to distribute these papers?

A. I never thought so.

Q. You did not think so?

A. No, sir.

Q. How big a place is Streator?

A. About fifteen thousand.

Q. Do you know how many retailers there are in that town?

A. About twenty.

Q. How long did he represent the "Pictorial Review," do you know?

A. I do not know.

Q. How long was he the Curtis agent there?

A. Well, for several years.

Q. In finding out whether those agents, whether those Curtis men, were in business before taking on any other publications, how did you do that? What did you do?

A. Will you repeat that?

Q. What did you do to get the information upon which you based a report?

A. Of the pink and white sheets?

MR. WELCH: Just wait until he asks the question.

By MR. DALY:

Q. Upon which you base the statement to the effect that a large number of these men handle Curtis publications first.

A. On their own statements and from the statements of other dealers.

Q. You saw each one of them and asked them personally about that, did you?

A. Yes, sir.

Q. And you took the trouble to find out?

A. Yes, sir.

Q. From other people as well, to verify that?

A. Yes, sir.

Q. Name an instance where you did that, will you?

A. I did in that case.

Q. In the Streator case?

A. Yes, sir.

Q. Who did you see there?

A. I saw George Stevens.

Q. Who is he—a retailer?

A. No, he is the—was the old agent.

Q. Who else did you see there?

A. Oh, I think it is Smith's Pharmacy, right across the street from Stevens' place—been retailing magazines for several years.

Q. Is that all?

A. That is all in that city.

Q. In Streator?

A. Yes, sir.

Q. Now, name another city where you did that; take one of the others.

A. Of these nine we are speaking of?

Q. No, I am speaking of the whole situation. You testified that there were a large number of agencies—I think I had a note of it.

MR. MILBURN: Forty-seven.

By MR. DALY:

Q. Forty-one, who began with Curtis. Now, some of those forty-one, give me one or two.

A. How I got the information?

Q. Yes; tell me how you discovered these facts.

A. I got it in each case from the agents themselves, and by other dealers.

Q. Take a city, take some city where you have one of your own men.

MR. WELCH: Look at your sheets.

By MR. DALY:

Q. Take one of your own agents, if you want to.

A. Well, Decatur.

Q. Decatur; now, what did you do there?

A. I went to W. T. McFadden, and then I went to the largest dealer in town, Haines & Essig.

Q. How big a place is Decatur?

A. Decatur is about forty-one thousand.

Q. And you saw nobody but the agent himself and another person?

A. Yes, sir; I saw the people taking care of the cigar stands in the hotels, two of the hotels, and other dealers in the town—in a town of that size.

Q. How many of them did you see?

A. About a half a dozen.

Q. How did you find out about Dixon?

A. Just the way it says on the pink sheet here in each case.

Q. What did he say, do you know?

A. Right off the bat I can't tell you until I look at them.

Q. Did you make a personal investigation?

A. If that says I did.

Q. This pink sheet says, "From Lou E. Edwards, our agent, by 'phone."

A. I was familiar with the circumstances in that case, though I called up Edwards.

Q. How long ago did you know about that town?

A. Well, ever since I have been in that territory, which has been over a year.

Q. Yes. Well, a man might be an agent a long period of time; would you be familiar enough with it to go back for a number of years?

A. Well, you can tell from his records, and in Edwards' case we looked over his books.

Q. How could you tell whether he was the first man there by his books—he was the first man there by his books?

A. Well, he knew that there was no one else had been wholesaling.

Q. Well, did you look at those yourself, or did you just say so?

Q. Well, did you look at those yourself, or did he books.

Q. And you learned that he——

A. That is, to check the year back.

Q. To find out whether or not he took on the Curtis first, isn't that it?

A. To find out how long he had had the agency.

Q. Well, how long did he have it in that case?

A. I can tell by the census data sheets, if I could get hold of those.

Q. Did he handle newspapers before?

MR. MILBURN: Ask for anything you want to look at.

THE WITNESS: Let me have the census data on Dixon.

MR. WELCH: You can go over and look at them.

MR. DALY: Wait. Let him find out, and I will go on with another one and come back to that.

THE WITNESS: Here it is (producing papers).

MR. DALY: Well, look at that now while you have it.

A. It was in January, 1914.

Q. That he went into business?

A. That he took our agency.

Q. What was he doing before that?

A. Well, he was in the same kind of business.

Q. What did he handle?

A. Book and stationery store.

Q. What is that?

A. Book and stationery store.

Q. Well, what magazines did he handle?

A. As to that, I do not know.

Q. How do you know that he took on Curtis first?

A. Does that say that? Where did we say that he handled Curtis first in the case of Dixon?

Q. Well, he may not have been the one, but I understood you to say—I had in mind that you testified that he was. If I am mistaken, why, you can correct me.

A. No, I think not. I don't understand it that way.

Q. Well, he was one that handled something else first, wasn't he?

A. At the time he took our agency he was not wholesaling any other magazines.

Q. Only newspapers?

A. He was wholesaling newspapers.

Q. Yes.

A. Yes, sir.

Q. Well, now, take Peoria, for instance. Was Mr. Bloom there; did he handle your goods first?

A. No, sir.

Q. What did he handle first?

A. He had "Hearst's," that is, the Hearst group that was all.

Q. Did he handle newspapers as well?

A. Yes, sir.

Q. Now, I notice that Bloom, in Peoria, handles the "Chicago Tribune," "Herald," "Examiner," "American," "Post," "Journal," "News," St. Louis "Dispatch" "Republic," "Globe-Democrat," Peoria "Journal," Peoria "Star," "New York Journal," and further handles your group, "Hearst's," Warner, "Literary Digest," "Collier's," "Munsey," "Motion Picture Classics," and that was on March 7, 1918. Now Hartman Brothers handle the "Pictorial Review." They are new people there, aren't they, in the magazine business?

A. I think so; yes, sir.

Q. But prior to their taking hold of the "Pictorial Review," Bloom was the only man there, wasn't he?

A. Yes, sir. That is, at two or three different times they have had different wholesalers there besides Bloom's agency.

Q. Well, he was an agent who sold these magazines for some time prior to this, was he not?

A. Yes, sir.

Q. Two years, for instance, do you think?

A. Yes, just about two years.

Q. Prior to the time of making this investigation; is that correct?

A. Yes, sir.

Q. Now, he handled the Curtis group how long?

A. Two years. That agency was bought out and sold to Bloom.

Q. Yes. Who had it before that, do you know?

A. A. A. Patton.

Q. And did he handle your publications?

A. Yes, sir.

Q. And he was the only man there then, wasn't he?

A. At different times, at that time there seemed to be a newspaper fight on there and Boerscheid Brothers——

Q. Did they handle magazines, or just newspapers?

A. Just newspapers.

Q. I am speaking of the only man that handled the magazines.

A. Excuse me.

Q. And he handled your papers for about two years, isn't that true?

A. Yes, sir.

Q. Do you know whether he handled the "Pictorial Review" or whether he was ever approached to handle it?

A. I am quite sure he has been approached, but I think he has never handled it.

Q. Do you think he refused because of the contract, the Curtis contract?

A. Yes, sir.

Q. Did the Crowell people ask him to take it?

A. Did the Crowell people ask him to take their agency?

Q. Yes.

A. He has the Crowell agency.

Q. Well, he must have taken it on recently, hasn't he?

A. Well——

Q. At the time of this report that does not show it.

A. That was—I don't know why he did not speak of it in that case, but since that time he had some sort of a news company arrangement with the Crowell publications.

Q. Is Bloom under the new contract?

A. No, sir.

Q. Why haven't you put him under?

A. It is from instructions from the home office that he is not.

Q. A good man, isn't he?

A. Sir?

Q. He is a good man there in the business?

A. You bet he is.

Q. And he handles Curtis satisfactorily, don't he?

A. Yes, sir.

Q. Are you going to cut him out because he handles the Crowell publications?

A. That will depend on the instructions I get from the home office.

Q. You don't know about that?

A. No, sir.

Q. Now, at Sterling, your man is Hallet, and he handles the "Chicago American," "Examiner," "News," "Literary Ligest," "Collier's," "Pictorial Review" and the Warner group. Now, how long was he your representative there?

A. January 1916.

Q. Then he has handled your group ever since, has he?

A. Yes, sir.

Q. Does he handle them now?

A. Yes, sir.

Q. What has become of the "Pictorial Review"?

A. He decided to discontinue "Pictorial Review."

Q. On account of your contract with him?

A. Yes, sir.

Q. And you still retain him?

A. Yes, sir.

Q. Did you put him under the new contract?

A. Yes, sir.

Q. When did you do that?

A. In February.

Q. This year?

A. Yes, sir.

Q. Did you have any trouble with him about his ability to handle your magazines?

A. No, sir.

Q. He has some reasonable organization to distribute them, has he?

A. None; only himself, he takes care of the deliveries.

Q. Does he have boys?

A. No, sir; he has boys selling Curtis magazines, but not making any deliveries to the dealers.

Q. And he covers the retailers; is that correct?

A. Yes, sir.

Q. Now, at Lincoln, Illinois, B. U. Nelson handles the "Chicago Tribune," "Herald," "Examiner," "American," "News," "Journal," and "Blooming Pantagraph"; is that it?

A. Yes, sir.

Q. And the "Springfield News Journal," "State Journal," "St. Louis Republic," "Globe-Democrat," Hearst's, your publications, Warner's, "Pictorial Review," "Literary Digest," "Collier's," "Motion Pictures," and "Motion Picture Classics"?

A. Yes, sir.

Q. Does he handle any other magazines, more magazines besides those?

A. He handles all the magazines in a wholesale way that come into the city of Lincoln.

Q. And he has been handling your publications for some time, has he not?

A. Yes, sir.

Q. Did he begin with you?

A. I will tell you in a moment (referring to papers). At the time he became our agent, December, 1911, at that time he was wholesaling no other magazines.

Q. You think he was not wholesaling Hearst's at that time?

A. Yes, sir.

Q. He was wholesaling Hearst's, was he?

A. No, sir; according to his own statement.

Q. No; he was handling newspapers, wasn't he, though?

A. Yes, sir.

Q. Now, your record shows that he signed up with Crowell to start with April, 1918. What became of that transaction; did you permit him to continue?

A. He discontinued that before anything was said to him.

Q. Do you know whether he found out that he ought not to handle it because of his contract?

A. I think not in his case.

Q. Now, with the "Pictorial Review," does he still keep that?

A. Yes, sir.

Q. Why do you keep him there, then?

A. That agency has transferred recently.

Q. And Nelson has been changed, has he?

A. Yes, sir.

Q. Why did you change him?

A. On account of "Pictorial Review."

Q. Prior to that time he was the only wholesale dealer in magazines in that town?

A. Yes, sir.

Q. And had been since 1911?

A. Yes, sir.

Q. Isn't that true?

A. Yes, sir.

Q. And he was under the old contract?

A. Yes, sir.

Q. Now, at LaSalle, J. A. Malone represents you, also the "Pictorial Review" and the Crowell group, or did at least on March 9, when you made this report. Is he still the agent.

A. No, sir.

Q. And what did you do about that?

A. Transferred the agency to W. F. Burns.

Q. Do you know whether or not he handled Curtis first—he probably did?

A. He did handle Curtis first; yes, sir.

Q. And you changed the agency here?

A. On account of the "Pictorial Review."

Q. Is he still in business there?

A. He is still in business, but not as our agent.

Q. Now, what other changes have you made in your district of the persons who handled other publications and you objected to them because of your arrangement with them?

A. We spoke of four—that was Dixon, Waukegan, LaSalle and Streator. We had those four.

Q. Yes, we had those, and this last man.

A. That was LaSalle.

Q. That was LaSalle, was it?

A. Yes, sir. The others are Galena, DeKalb and Elgin.

Q. Take Galena, for instance; why did you change there?

A. Well, the information that I had received on Galena in the first place was to the effect that he was wholesaling "Pictorial Review."

Q. Yes.

A. But from each visit in the town I had decided about the second visit there that that town needed a transfer. It came to where it was shown that he was not and had not handled "Pictorial," but I made the transfer anyway on account of his not being——

Q. Well, if he had been handling "Pictorial" you would have changed him, in accordance with your policy?

A. I would have changed him; yes, sir.

Q. Now, was he the first man—had he handled Curtis first?

A. I might add here that Galena, I did not investigate that town.

Q. No; that was outside of your district?

A. Yes, sir.

Q. I understood that.

A. It was in my district, but it was taken care of by Mr. Earnshaw.

Q. Take Elgin, what change did you make there?

MR. MILBURN: Who investigated it?

THE WITNESS: Earnshaw investigated it.

By MR. DALY:

Q. Did you investigate Elgin?

A. Yes, sir.

Q. You did not make any change there, did you?

A. Yes, sir.

Q. Whom did you change?

A. I changed it from Kennell Brothers to Harry L. Zook.

Q. Kennell Brothers had handled all the Chicago papers, and besides that handled the Hearst group,

Munsey's, Warner's, "Collier's," "Literary Digest" and the "Review"?

A. Yes, sir.

Q. And you changed it over to Mr. Zook?

A. Yes, sir.

Q. Did they handle your papers, your magazines, satisfactorily while they had the agency?

A. I decided there too that that town would need a transfer about the first time that I visited it.

Q. Why?

A. Because he had so many other things that he could not give any one thing the right amount of attention.

Q. Had the circulation run down?

A. Yes, sir.

Q. Can you tell me about how it had run down?

A. Well, it had run down. I cannot give you the exact figures.

Q. How long had he been your agent?

A. Since May, 1910.

Q. Had he ever won any prizes or bonuses?

A. I think he testified regarding that.

Q. No. Do you know whether he did or not?

A. No, sir.

Q. Well, prior to your changing him, they were the only people there, weren't they, the only wholesale dealer there?

A. If that says so?

Q. Yes; that is what it says. How did you find out the circulation ran down—this man's circulation?

A. We have comparative figures on our town instructions—net sales this year against net sales last year.

Q. All right, then. Take Galena. There does not seem to be any report here on Galena.

A. Galena was investigated by Mr. Earnshaw.

Q. Now, in DeKalb, Vaughan is your man?

A. Yes, sir.

Q. How recently was he appointed?

A. I think in January.

Q. Of this year?

A. Yes, sir.

Q. Prior to that, who represented you there?

A. S. McCann.

Q. And he handled the Hearst group, "Pictorial Review," "Digest," Warner's, "Collier's," the Crowell group, "Motion Pictures" and "Motion Picture Classics" and Munsey's?

A. Yes, sir.

Q. He also handled the Chicago papers, didn't he?

A. Yes, sir.

Q. And how long had he been your representative there?

A. October, 1916.

Q. Did he take on your magazines first?

A. Yes, sir. No, no. I will correct that. He did not take on ours first.

Q. What did he handle before he handled yours?

A. He had the Hearst group.

Q. And then he took on yours next; is that true?

A. Yes, sir.

Q. And you changed him?

A. Yes, sir.

Q. Why?

A. On account of the "Pictorial Review."

Q. The Crowell group, too, I suppose?

A. That was not brought into it at that time.

Q. Then on account of the contract—did you put this man Vaughan under a new contract?

A. Yes, sir.

Q. New form?

A. Yes, sir.

Q. Now, McCann had been satisfactory up to that time, hadn't he?

A. Well, I would not say so.

Q. How long had he been your representative?

A. Two years.

Q. And when did you begin to find fault with him; did you ever find any fault with him?

A. From the first visit in the town, I had made up my mind that that was not the place for the agency.

Q. And how long ago is that?

A. About a year ago.

Q. And you let it run a whole year through, before changing him; is that right?

A. Yes, sir.

Q. In Alton, Illinois, Miller is your man there. isn't he?

A. Since I have made that investigation there has been two or three different changes made in Alton, of which I am not familiar.

Q. Did Delaney ever handle your magazines?

A. No, sir. Just a moment—I can't answer that.

Q. You don't know?

A. No.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Of your forty-seven agents, about how many have you appointed yourself? Do you know? I just mean approximately. Have you appointed half of them?

A. Fourteen.

Q. Are you familiar with what they handled when they started with the Curtis?

A. Yes, sir.

Q. And have you got any boys, district agents?

A. Yes, several.

Q. You have testified to several changes here, and it appears from your testimony, and I want to ask you if it is not a fact, that in several of these towns you have changed from the agent who was the only wholesaler in the place in some instances, the only newspaper wholesaler, and appointed another agent.

A. Absolutely.

Q. And have you had any difficulty in getting people to take your business?

A. No, sir.

Q. These eight or nine towns, with reference to which you have given testimony, were selected as towns where there was only one wholesaler, were they not—in answer to the question I asked you as to giving towns where there was only one wholesaler?

A. Yes, sir.

Q. Who sold Curtis and other magazines.

A. Yes, sir.

MR. MILBURN: That is all.

EXAMINER MOORE: We will adjourn until 2 o'clock tomorrow at Cincinnati.

(Whereupon, at the hour of 3 o'clock P. M. of said day, May 22, 1918, an adjournment was taken until the following day, May 23, 1918, at the hour of 2 o'clock P. M., at Cincinnati, Ohio.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission.
v.
The Curtis Publishing Company.
} Docket No. 15.

Room 304, Federal Building,
Cincinnati, Ohio.
Thursday, May 23, 1918,
2.00 o'clock P. M.

The above-entitled matter came on for further hearing, pursuant to adjournment.

Before EXAMINER CHARLES S. MOORE.

Present: A. M. DALY, Esq. and L. A. SPIESS, Esq., on behalf of the Commission, and
JOSEPH W. WELCH, Esq., and JOHN G. MILBURN, JR., Esq., on behalf of the Curtis Publishing Company.

H. L. YOUNG was called on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Young, are you employed by the Curtis Publishing Company?

A. Yes, sir.

Q. What is your position?

A. Superintendent of sales agencies.

Q. What district do you cover?

A. At the present time?

Q. Yes; what is your district?

A. Central Illinois.

Q. What district did you cover or were you covering at the time you made this investigation?

A. The Dakotas, part of Minnesota and part of Iowa.

Q. Did you also investigate some towns outside of your own personal district?

A. I did.

Q. How many towns did you investigate, all told?

A. Forty-nine.

Q. And you made this investigation at the request of the Curtis Publishing Company to find out the situation with reference to the wholesaling of magazines and newspapers throughout these towns, did you?

A. Yes, sir.

Q. Did you make written reports, town by town, to Philadelphia?

A. Yes, sir.

Q. And these reports are contained in the pink and white slips which we have here?

A. Yes, sir.

Q. What did you do in making the investigation—did you go to the towns personally?

A. I went to a majority of them personally and interviewed the district agents.

Q. And some of these towns you are very familiar with, are you not—you have been in and out of them repeatedly?

A. Yes, sir; for the past three years I have made that territory.

Q. And you know the district agents and other people engaged in the wholesale business in those towns?

A. Yes, sir.

Q. In how many of the towns covered by you in this investigation is there only one magazine wholesaler?

A. Thirty-nine.

Q. And I understand that you do not count in that number the American News Company's branches or any agents who represent the Pictorial or Crowell alone, is that correct?

A. That is correct.

Q. In how many towns where there is only one wholesaler does he handle the Curtis magazines only?

A. Thirty-five.

Q. How many of your agents wholesale only Curtis magazines?

A. Thirty-five.

Q. How many of your agents began the wholesale magazine business with the Curtis magazines?

A. Forty-six.

Q. In how many of your towns where the Curtis agents handle other magazines is that agent the only wholesaler of magazines?

A. Fourteen.

Q. How many of your agents do not wholesale any newspapers at all?

A. Thirteen.

Q. Have you any boy agents?

A. I had.

Q. How many?

A. In that whole territory probably a dozen or something like that—around a dozen.

Q. You are giving the figures as of the date of the investigation that you made?

A. Yes, sir.

Q. And in some instances have agents been changed since then?

A. Yes, sir; I presume there have been agents changed since that time.

Q. When there is a town where an agency has been changed, will you state the town?

A. State the town?

Q. When you are asked that question—how many changes have been made since the investigation, just tell us to clear that up.

A. Yes, sir.

Q. And you have made certain changes because your agents have been wholesaling "Pictorial Review" or the Crowell publications?

A. Yes, sir.

Q. And some you have made for other reasons—because they were unsatisfactory, you removed them?

A. Yes, sir.

MR. MILBURN: I think that is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Will you give me those fourteen towns—the names of fourteen towns that have a wholesaler of yours in there who handles other magazines?

A. Yes, sir; Storm Lake, Iowa; Calumet, Michigan; Manitowoc, Wisconsin; Marquette, Michigan; Ironwood, Michigan; Houghton, Michigan; Boone, Iowa; Ames, Iowa; Rockford, Illinois; Escanaba, Michigan; Huron, South Dakota; Mitchell, South Dakota and Traverse City, Michigan—also Carroll, Iowa.

Q. Now, can you give me an idea of the population of these fourteen towns?

A. Yes, sir.

Q. What is it, please?

A. Storm Lake, Mitchell, Carroll, Ames, Huron, Boone and Ironwood are around 5000 population.

Q. What were the others?

A. The others were approximately 10,000—in that neighborhood.

Q. And the forty-nine towns you have spoken about, leaving out the fourteen you have testified about —how does the population run in those towns?

A. They run probably on an average of 15,000 to 20,000?

Q. All the rest are larger towns?

A. All those thirty-nine towns will average twenty thousand population.

Q. They range from what to what?

A. Fifteen thousand to twenty thousand—ten to fifteen to twenty thousand—that is about the range.

Q. In Storm Lake, was the agent there your agent first?

A. I want to see the sheet before answering. (After examining paper.) He was our agent first.

Q. How do you know that?

A. By investigating the town.

Q. What did you do to find that out?

A. I asked the agent at Storm Lake.

Q. In Calumet, was your man there the first agent —did he handle your paper before anything else?

A. Yes, sir.

Q. That is, as to newspapers and magazines?

A. I will not say as to newspapers.

Q. Will you not look at your records and ascertain that?

A. (After examining paper.) He was our agent first.

Q. And did not handle anything else?

A. No other magazines.

Q. Any newspapers?

A. No, sir.

Q. In Manitowoc, Wisconsin, the City News Depot is your agent?

A. At that time, yes, sir.

Q. They handled the Hearst group and yours?

A. Yes, sir.

Q. And also handled the "Chicago Tribune," the 'Herald" and the "Examiner," and are the only agents there—is that correct?

A. Wholesale only?

Q. Yes.

A. Yes, sir.

Q. And they were at the time you made this investigation?

A. Yes, sir.

Q. And they were for a time prior to that—is that true?

A. As far as I know.

Q. Is he an old man?

A. He is a young fellow—about twenty-two years old.

Q. He has represented you for a period of time?

A. Yes, sir.

Q. Was he under the old contract?

A. Yes, sir.

Q. And is he now under the new contract?

A. I am not able to answer that. He is not in my territory now.

Q. How did you find out this man became your agent first?

A. J. Philips, the agent——

Q. He said that?

A. Yes, sir.

Q. At Ames, Reynolds & Iverton handle your publications, the Hearst list and the Chicago papers?

A. Yes, sir.

Q. How long has he been your agent there?

A. Several years.

Q. Under the old contract?

A. At the time I made the investigation; yes.

Q. Is he under the new contract?

A. I cannot say; he is not in my territory at the present time.

Q. Was he your agent first?

A. I will have to see the sheet; I do not recall that. (After examining paper.) He was our agent before he handled any other magazines.

Q. He was a newspaper man before that?

A. Yes, sir.

Q. Now, in Escanaba there is Henderson, who handles your magazines and the Hearst list and the Chicago papers?

A. Yes, sir.

Q. And he was the only wholesaler there at the time you made this investigation, and was the only one for a long time prior to that—is that true?

A. Wholesaler of magazines, you refer to?

Q. Yes.

A. Yes; I think that is correct.

Q. Have you changed him to the new contract?

A. I did not make that territory. It is in another man's hands.

Q. This man handled newspapers, before he took on your publications, did he not—can you tell by looking at your sheet?

A. Not by that one (indicating); no.

MR. WELCH: Perhaps you can tell from this sheet (handing paper to witness).

THE WITNESS: He was handling newspapers first, prior to handling ours.

By MR. DALY:

Q. Handling the Chicago papers?

A. Yes, sir.

Q. Now, in Huron, South Dakota, Longstaff was your dealer there?

A. Was at that time; yes, sir.

Q. And he handled the Hearst and yours?

A. He was a retailer of the Hearst.

Q. He was a retailer of the Hearst and wholesaled your publications?

A. Yes, sir.

Q. And he covered that territory, did he?

A. For us; yes, sir.

Q. How long was he your representative there?

A. He was the agent there for several years.

Q. Is he under the new contract?

A. He is in another man's territory. I do not make that territory at the present time.

Q. You don't know about that?

A. No, sir.

Q. At Houghton, Michigan, your dealer there handles the Hearst list, besides yours, and also handles the "Chicago Tribune," and the "Detroit Free Press," and he is the only newspaper man and only magazine man there is he not? That is what your report shows?

A. Yes.

Q. How long was he there?

A. Several years.

Q. Under the old contract?

A. Yes, sir.

Q. Is he under the new?

A. I do not know; I do not make that territory at the present time.

Q. In Boone, Iowa, White is your dealer and he handles Curtis, the Hearst list and also handles the Chicago papers?

A. Yes, sir.

Q. Now, he handled the Chicago papers first, did he not?

A. I think he did.

Q. And he has been there a long while and was under the old contract?

A. And he is under the new contract.

Q. Under the new contract?

A. Yes, sir.

Q. When did you put him under the new contract?

A. December, 1917.

Q. Ironwood, Michigan, Jason Freer handles your publications and the "Hearst's" and he is the only dealer there?

A. The only wholesaler.

Q. How long has he been there—do you know?

A. I do not know.

Q. He has been your representative for a long time?

A. Yes, sir.

Q. And he handled also the Chicago papers?

A. Yes, sir.

Q. And he handled them before he took on yours? Is that true?

A. I do not know whether he did before or not.

Q. You do not know that?

A. I do not recall now.

Q. Can you find out for me?

A. It is in the record there.

Q. Look at it and see (handing paper to witness).

A. He handled our agency before he handled newspapers.

Q. He handled what?

A. Our agency before he got any newspaper agency.

Q. Do you know what date he took on your papers?

MR. MILBURN: I can give that—July, 1907.

Q. Do you know when he took on the Chicago papers?

A. No, sir; I do not know.

Q. At Traverse City, Michigan, your man is A. A. MacDermott, and he handles the Curtis publications. Did he handle anything else.

A. Yes, sir.

Q. What did he handle?

A. It is on the record; I do not recall.

Q. It does not show anything except the Chicago papers—the "Chicago Tribune," the "Detroit News" and "Detroit Free Press." So that report is not correct about handling other magazines, is it?

MR. MILBURN: Look at the pink and white slips and see what the situation was.

By MR. DALY:

Q. He is the only newspaper man there, too, is he not?

A. No, sir.

By MR. MILBURN:

Q. After looking at these slips, will you state what magazines he handles, if any, and what newspapers, if any—you can just read them off.

A. He is listed here as handling our agency alone.

Q. And how about newspapers?

A. No newspapers.

Q. What?

A. No newspapers.

Q. He is listed there as handling three newspapers, right in front of you.

A. No; that is L. W. Smith. He is not our agent. He is listed as handling the "Chicago Tribune," the "Detroit News" and "Detroit Free Press."

By MR. DALY:

Q. Is not MacDermott listed there?

A. Yes, sir.

By MR. MILBURN:

Q. MacDermott does not handle magazines?

A. MacDermott is now agent at Traverse City and does not handle any newspapers.

By MR. DALY:

Q. He does not handle other magazines?

A. No, sir.

Q. At Rockford, Fred Camp handles the Hearst list, your publications and "Pictorial Review." He also handles the "Chicago Tribune," "Examiner" and "Herald." Do you know what he took on first?

A. He took on ours first.

Q. Before the Chicago papers?

A. Yes, sir.

Q. When did he take on the Chicago papers?

A. I do not know the date.

Q. When did he take on yours?

A. I beg your pardon. On that question I had the wrong sheet.

Q. Tell me about this man?

A. Camp—he was wholesaling other magazines before he got our agency and also newspapers, and took on our agency March, 1917.

Q. He is a new man, is he not?

A. Yes, sir.

Q. Where did he get his agency from?

A. What do you mean?

Q. He took over another business?

A. He bought out a business at Rockford.

Q. Did this other man handle the same publications?

A. I could not say; it was not one of my towns. I just made this town in connection with this special investigation which I was making.

Q. You do not know about that?

A. No, sir.

Q. Now, is he still your representative there?

A. I believe he is not.

Q. Do you know whether you changed him on account of handling "Pictorial Review"?

A. They have changed him.

Q. For that reason?

A. Yes, sir.

Q. Now, at Mitchell, South Dakota, Larson

Brothers are the only wholesalers there and they handle Curtis and "Hearst's." How long have they been the only ones there?

A. For several years, I presume.

Q. Are they under the old contract?

A. They were when I was there.

Q. Under the new contract?

A. I am not making that town at the present time.

Q. Have you made any changes in your district—

A. Yes, sir.

Q. (Continuing) because your district agents were handling other publications?

A. Other publications—yes, sir.

Q. In what instances did you do that?

A. What towns do you mean?

Q. Yes.

A. Fort Dodge, Iowa, and Mason City, Iowa.

Q. What cities?

A. Fort Dodge, Iowa, and Mason City, Iowa.

Q. Now, have you asked agents in other towns to quit handling these publications and they have continued to handle them?

A. Have I asked them?

Q. Yes—did you ask any of these men who were handling other publications to drop them?

A. Why, no, the only instance when I state there anybody handling "Pictorial Review" or Crowell publications in my territory—if they were handling them, they were not desirable and I dropped them.

Q. These are the only two you dropped?

A. Yes, sir.

Q. And they are the only two who were handling "Pictorial Review"?

A. In my territory?

Q. Yes—that you changed.

A. Yes, sir.

Q. Your representative there, however, was for

some time back, Stevens & Company—is that true—they were the only wholesalers there for a long period?

A. Wholesalers of what?

Q. Magazines.

A. No, sir.

Q. Who was the other one?

A. My recollection is it was a man by the name Petersen.

Q. Your report shows at Fort Dodge, Stevens & Company handled the Hearst list, "Pictorial Review" and that Weller handled your publications?

A. Stevens was a newspaper wholesaler.

Q. Now, prior to your putting Weller in there? Was Stevens the only one?

A. Yes, sir.

Q. And when did you put Weller there?

A. In December, 1917.

Q. You put him there because the "Pictorial Review" was being handled by Stevens?

A. Yes, sir.

Q. Stevens also handles the Chicago papers?

A. Not all of them—it is a split shipment.

Q. The "Herald," "American" and "Examiner"?

A. Yes, sir; Petersen handles some others.

Q. Do you know whether Stevens was in the newspaper business prior to handling your publications or not?

A. He handled our line before he handled either newspapers or magazines.

Q. Now, did you inform any newsdealer in this territory who was handling "Pictorial Review" that you would take away your publications unless they gave up the "Pictorial Review" or the Crowell publications?

A. Threaten them?

Q. Yes.

A. No.

Q. Did you tell them?

A. Why——

Q. As a matter of fact, is not that the procedure?

A. They were given the chance to choose between us and the "Pictorial Review" and the Crowell people.

Q. In how many instances did they keep them and give up the others?

A. Give up the others?

Q. Yes—give those instances.

A. You mean to say they gave them up—the men who had really taken on one or both of those other two publications.

Q. Men who were wholesaling either the Crowell publications or the "Pictorial Review," or both.

A. And really gave them up—had them give them up.

Q. Yes.

A. You do not mean talk about them, but did not have them, but since then had them and gave them up——

Q. That is what I want.

A. I can not find any of those—none of the rest of them had them.

Q. Do you cover Des Moines?

A. No, sir.

Q. Is Sioux City in your district?

A. No, sir.

Q. Cedar Rapids is not in your district?

A. No, sir.

Q. Do you know how many of these men wanted to take on the "Pictorial" and could not, in your district?

A. Wanted to?

Q. Yes.

A. There might have been one or two instances where they had an opportunity to write in, but found how we felt about it and did not take it.

Q. In Mason City, your former agent was who?

A. Yelland.

Q. He handled the Hearst line and "Literary Digest"?

A. Yes, sir.

Q. And handles the "Pictorial Review" now?

A. Yes, sir.

Q. Prior to the time that you changed to Ferguson, he was the only agent there?

A. The only magazine agent.

Q. He also handles the Chicago papers?

A. Yes, sir.

Q. Did he begin by taking on your magazines or the Chicago papers—which?

A. I think that was an instance where the transfer was turned over to him. He had both of them because the business was bought out. Everything was included in one set.

Q. He bought out the whole thing?

A. Yes, sir.

Q. And you do not know whether his predecessor handled the Chicago papers first, do you?

A. Nor sir; I do not.

Q. Now, at Manitowoc, Philips & Sons dealt in your magazines and Hearst's and are the only people there?

A. Yes, sir.

Q. And also dealt in the Chicago and Milwaukee papers?

A. Yes, sir.

Q. Do you know whether they were ever asked to handle "Pictorial Review"?

A. I do not know.

Q. Or the Crowell publications?

A. I do not know.

Q. Are they under the new contract?

A. They are not in my territory at the present time.

Q. Do you know whether they have been the only dealers in newspapers or magazines there for a considerable period?

A. Yes, sir.

Q. It has been more than a year or two back?

A. Yes, sir; I should say so.

Q. Now, of all the agents—all these men that you have testified about, as a general thing, have they been put under the new contract?

A. I imagine so. They have a man in that territory for that purpose. I imagine they have.

Q. You would be guessing when you said that?

A. Yes, sir.

Q. You do not know that?

A. No, sir; I do not know that.

Q. Now, the remainder of the towns that I have not mentioned are covered by your people only—is not that true?

A. You mean handle our stuff exclusively?

Q. Yes.

A. Yes, sir; as far as I know.

Q. And they are towns from fifteen to twenty thousand population?

A. Yes, sir; along in there.

Q. And they are the only dealers in those towns—dealers in magazines?

A. Yes, sir.

Q. And how long have they been there—for some time, as a rule—they are old agents, are they not?

A. I could not say offhand.

Q. You made this investigation and went into these towns?

A. They have been there a fair time.

Q. More than a year?

A. Probably.

Q. Do you not know the district well enough to say they have been there for a considerable period of time--many of them?

A. I should say over a year.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. In your own district, the district with which you are perfectly familiar, is it not true that the agents —most of them—have been there for more than a year?

A. Yes, sir.

Q. And in your own district you are changing them over to the new contract as rapidly as you can get around to them?

A. Absolutely.

Q. And that you know to be the general policy throughout the entire country?

A. Absolutely.

Q. How many of these towns are in your district?

A. About thirty-eight of them.

Q. Can you not tell, in your own district, how long these men have been in business, as a rule?

A. Well, I do not know the dates, but I should say —you mean in general terms?

Q. Handling your magazines.

A. Well, one or two or three years, probably.

Q. Would a number of them be three years?

A. Yes, sir.

Q. And several two years?

A. Yes, sir.

Q. And all the others one year—would not that be about right?

A. Yes, sir.

Q. In making this new contract, if you have to

put in a new party, do you take anybody that is handling newspapers and magazines?

A. Do I take anybody?

Q. Yes.

A. Yes, sir.

Q. How many changes have you made in your district—I mean changes from one agent to another; I am not talking about the contracts. How many new agents have you appointed in the last six months?

A. Under the old contract or the new contract?

Q. Well, in covering the district you are familiar with——

A. The one I am traveling in now?

Q. The one on which you reported, and which is your own district—you told me on the direct examination your investigation covered a district as to which you were familiar?

A. Yes.

Q. And now, will you take the district with which you are familiar and tell us how many changes you made?

A. Including the entire time I covered that territory?

Q. Are you covering that district now?

A. No, sir.

Q. In the new territory how many changes have you made?

A. Out of thirty towns I have changed every one except four to the new contract.

Q. I did not ask you anything about the new contract. Now listen. I asked you how many new agents you appointed in your territory?

A. Oh, new agents?

Q. Yes.

A. I should say, offhand, probably half a dozen.

Q. Could you state whom you selected in those half dozen instances, to take the work over?

A. Yes; I think so.

Q. Give those half dozen instances—tell whom you changed from and to whom you changed, and what their business was.

A. What their business was?

Q. Yes.

A. The first town I changed from a bookstore——

Q. Did they handle magazines wholesale before?

A. No, sir; only retail.

Q. Give me the town.

A. Lincoln, Illinois.

Q. Did they wholesale newspapers before?

A. No, sir.

Q. Give the next town.

A. Springfield, Illinois, I changed to an independent man who did not handle magazines or newspapers at all.

Q. What is his business?

A. A clerk in a drug store.

Q. And this is the first magazine business he has ever been in?

A. As far as I know.

Q. What is the next one?

A. Mt. Vernon, Illinois, I changed to a man who was a wholesale newspaper man exclusively and who handled no magazines.

Q. Is there any magazine wholesaler there?

A. No; I do not think so.

Q. Is the man from whom you changed still in business?

A. Yes, sir.

Q. Wholesaling other magazines?

A. I do not think so.

Q. He quit the magazine wholesaling business?

A. Yes, sir.

Q. What is the next town—that makes three.

A. The next one was Harrisburg, Illinois.

Q. To whom did you change there?

A. To a man who was a retail magazine and cigar store man.

Q. Does he wholesale newspapers now?

A. No, sir.

Q. Did he wholesale any magazines before you went to him?

A. No, sir.

Q. Any other instances—you have a list. You can look at that list of towns if you have it there.

A. I have not got it here. That is about all I can recall.

Q. Out of the changes, you can recollect you have only gone to one newspaper wholesaler—is that true?

A. Yes, sir; absolutely.

Q. Can you tell me whether, at Houghton, your district agent there handled Curtis magazines first or not?

A. He did.

Q. How many newspaper wholesalers are there in Marquette, and give their names?

A. Two—O. E. Berke, who handles the "Detroit Free Press," and Charles F. Willison, who handles the "Chicago Tribune" and "Examiner."

Q. How many at Fort Dodge?

A. Three, R. M. Seamans, Harry Petersen and Joe Stein.

By Mr. Daly:

Q. Tell what they handle.

A. R. M. Stevens handles the "Chicago Herald," the "American" and "Examiner"; Harry Petersen handles the "Chicago Tribune," and Joe Stein handles the "Des Moines Register" and "Tribune."

By Mr. Milburn:

Q. In naming Traverse City among the towns where the Curtis agent handles other magazines, were you not in error then? Does not your pink report show he handles only Curtis magazines?

A. Yes, sir; there was an error made.

Q. There is another newspaper wholesaler there, is there not?

A. Yes, sir.

By Mr. Daly:

Q. Who is he?

A. L. W. Smith, handling the "Chicago Tribune," the "Detroit News," and the "Detroit Free Press."

Q. He is not your agent?

A. No, sir.

Q. What is the population of those four towns where you have made the four changes?

A. Lincoln, about 12,000; Springfield, 75,000; Harrisburg, about 10,000 or 15,000, and the other one is about 10,000.

Q. Were any of these changes made because the parties were handling "Pictorial Review" or the Crowell publications?

A. Yes, sir; Lincoln was changed because they were handling the "Pictorial Review."

Q. How about the other towns?

A. That was not the reason.

Q. Did you give me Lincoln before, when I asked for the changes on account of "Pictorial Review"?

A. That was the other territory.

Q. You are speaking of two territories?

A. Yes, sir.

Q. In this territory, how many have been changed?

A. In the first territory I gave two towns, Mason City and Fort Dodge, and in the present territory I

am referring to, four changes; the first one, Lincoln, was made because of the "Pictorial Review."

Q. Those are the only changes you have made outside of the old territory?

A. Yes, sir; as far as I can recollect.

MR. MILBURN: That is all.

MR. DALY: That is all.

C. E. BOYCE was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you employed by the Curtis Publishing Company?

A. Yes, sir.

Q. In what capacity?

A. Superintendent of agencies.

Q. How long have you been superintendent of agencies?

A. A little over four years.

Q. What territory do you cover?

A. At the present time?

Q. Yes.

A. Southern and western Ohio.

Q. Have you made an investigation in reference to the wholesale situation at the request of the Curtis Publishing Company and reported as to that, recently?

A. Yes, sir.

Q. What district did you cover in that investigation?

A. Our regular district, Southern and Western Ohio.

Q. And you are familiar with all the cities and

towns in that district where you made the investigation, and have been in and out of those towns repeatedly?

A. Yes, sir; for nearly two years.

Q. And you know all the agents?

A. Yes, sir.

Q. In how many of the towns in your district is there only one magazine wholesaler—how many towns did you cover?

A. Thirty-three, altogether.

Q. How many have only one magazine wholesaler?

A. Twenty-two.

Q. In how many towns where there is only one magazine wholesaler, does he handle the Curtis publications only, in the magazine line?

A. Seventeen.

Q. How many of your agents wholesale only the Curtis magazine?

A. Twenty-six.

Q. How many began the wholesaling of magazines with the Curtis publications?

A. Thirty-two.

Q. In how many of your towns where the Curtis agents handle other magazines, is that agent the only wholesaler of magazines?

A. Five.

Q. That is, where he handles others and is the only wholesaler?

A. Yes, sir.

Q. How many of your agents do not handle newspapers at all, wholesale?

A. Eighteen.

Q. In making this investigation, did you exclude the American News Company and agents for the Crowell and "Pictorial Review"?

A. In these figures; yes, sir.

Q. And have there been any changes since this investigation was made?

A. There have been a few.

Q. When a town is mentioned, if there has been a change made in it will you so state when you are questioned?

A. You mean in regard to cities, as to whether they were handling other magazines, or——

Q. Only where you have appointed a new agent?

A. Yes, sir.

Q. Who was Mr. Tafel?

A. Who was Mr. Tafel?

Q. Yes.

A. He is our district agent at Piqua.

Q. Was he asked to handle the Crowell magazines?

A. Mr. Tafel told me he was.

Q. Under what circumstances?

A. He stated that a representative of the Crowell Company called on him and asked him to take the agency for the Crowell group, and also stated that sanction had been given to another of our district agents to handle it.

Q. Do you know which one he referred to?

A. He said it was Norwalk, Ohio.

Q. Do you know who was supposed to have given the sanction?

A. Our northern Ohio representative.

Q. That is O'Neil?

A. Yes, sir; he said he would know the name if I mentioned it, and I mentioned O'Neil's name.

Q. Did he take Crowell out?

A. Yes, sir.

Q. How many issues did he handle?

A. He took it on early in March, and I was there about a month ago. So, he had had it about that length of time. I could not say exactly the number of issues.

Q. Is he handling it now?

A. I could not say whether he is handling it now or not.

Q. Have you changed him?

A. No, sir.

Q. If you find he is continuing to handle it, you will change him, will you not?

A. Yes, sir.

Q. Did he give you his Crowell contract?

A. Yes, sir.

Q. Will you give it to me?

A. Yes, sir (handing paper to Mr. Milburn).

Q. That contract recites he was to handle it through boys, among other things?

A. It states in there what he is to do.

MR. MILBURN: I offer that in evidence.

MR. DALY: We do not object to it.

(The paper referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 34," and the same is as follows):

RESPONDENT'S EXHIBIT NO. 34.

"Date Mar. 1st 1918 City Piqua State Ohio.

AGREEMENT entered into as of this date, by and between THE CROWELL PUBLISHING COMPANY, hereinafter called the "Publisher" and Tafel Bros., hereinafter called the "Distributor," as follows:

1. The Publisher hereby appoints the Distributor to make a wholesale distribution to newsdealers and boys of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE in above named city, and agrees.

2. To ship copies prepaid direct to the Distributor from the Publisher's Plant at Springfield,

Ohio, to the regular wholesale prices fixed by the Publisher from time to time. Copies to be delivered to the Distributor, unless unforeseen difficulties prevent, in time for distribution on the on-sale dates authorized by the Publisher.

3. To accept from the Distributor full returns of unsold copies of EVERY WEEK and FARM AND FIRESIDE of the first eight issues and of the WOMAN'S HOME COMPANION and THE AMERICAN MAGAZINE the first two issues; after which time to accept 20% full front covers, charges prepaid, to reach the News Company within three weeks from the on-sale date of EVERY WEEK and within six weeks of the on-sale date of the monthly magazines.

In consideration of the foregoing, the Distributor accepts the appointment and agrees:

4. To sell copies of the above publications to newsdealers and boys at the regular sub-agents' prices fixed by the Publisher from time to time, these copies to be resold by newsdealers and boys to single copy consumers at the full retail prices, but to sell no copies in advance of the sale dates authorized by the Publisher. Returns of unsold copies to be accepted from newsdealers and boys at the same prices charged.

5. That, if the Distributor has a credit account with the News Company through which he draws, he will pay his Crowell Account in the usual way. If he has no account, he will remit in advance with order, in accordance with schedule shown on order blanks, and further that payment for copies and returns of unsold copies will be made to the American News Company or a branch thereof.

6. THIS AGREEMENT, and the bond executed on the back hereof, when ratified by the New York office of the CROWELL PUBLISHING COMPANY are to

remain in effect for one year from date, and to continue thereafter, until terminated by thirty days' written notice given by either party to the other after the expiration of said year. If, however, the Distributor should fail to carry out this agreement to the satisfaction of the Publisher, or fail otherwise properly to conduct the agency. The Publisher shall have the right to cancel this contract without notice, and to appoint another Distributor in his place.

W. C. JONES,
Representing the Publisher

Tafel Bros, J. J. Tafel,
Distributor.

Ratified and accepted by the CROWELL PUBLISHING COMPANY By H. N.————

CASH BOND.

City..... State..... Date.....

KNOW ALL MEN BY THESE PRESENTS: That I, the undersigned, designated in the agreement, executed on the back hereof, of which this bond is a part, as the "Distributor," am held and firmly bound unto THE CROWELL PUBLISHING COMPANY, doing business in New York City, State of New York, in the sum of ..... dollars ($.....) lawful money of the United States, paid this day unto the CROWELL PUBLISHING COMPANY for the sale of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE.

THE CONDITION of this obligation is that if the Distributor shall well and truly, honestly and faithfully perform the conditions of the agreement, by the Distributor to be performed, and to pay to

the CROWELL PUBLISHING COMPANY, on its order, all moneys that may become due from the Distributor thereunder, then this obligation shall be void and the above cash bond is to be returned to the Distributor, together with interest at 5 per cent per annum, otherwise this cash bond, in whole or in part, may be retained for reimbursement by THE CROWELL PUBLISHING COMPANY without notice.

Date..... .....

Signature of Distributor.

PERSONAL SURETY BOND.

City..... State..... Date.....

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned, principal and surety, are held and firmly bound unto the CROWELL PUBLISHING COMPANY, of New York, in the sum of..... Dollars ($.....) lawful money of the United States, to be paid unto THE CROWELL PUBLISHING COMPANY, its successors and assigns, for which payment well and truly to be made, we jointly and severally bind ourselves, and each of our heirs, executors and administrators, firmly by these presents.

WHEREAS: The Principal (Otherwise known as Distributor) has entered into an agreement in writing with THE CROWELL PUBLISHING COMPANY for the sale of copies of EVERY WEEK, WOMAN'S HOME COMPANION, THE AMERICAN MAGAZINE and FARM AND FIRESIDE.

THE CONDITION of this obligation is that if the Distributor shall well and truly, honestly and faithfully perform the conditions of said agreement by the Distributor to be performed, and pay to the said THE CROWELL PUBLISHING COMPANY or its order, all moneys that may become due from the

Distributor thereunder, then this obligation shall be void, otherwise to remain in full force and effect.

Date.....

.....

Signature of surety.

.....

Signature of Distributor.

....

Address

Address....."

CROSS-EXAMINATION.

By MR. DALY:

Q. Did Tafel handle the "Pictorial Review"—if you know?

A. No, sir; not to my knowledge.

Q. You do not know that, on March 8th, he sent a check for $5.85, covering sixty copies of the May issue—a year ago last May.

A. Did you ask me if he handled the "Pictorial Review" or wholesaled it?

Q. Wholesaled it?

A. He does not wholesale it to my knowledge.

Q. You do not know whether he handles it through anybody else or not?

A. Whether he supplies anybody else?

Q. Whether somebody else supplies him.

A. No, sir; Mr. Tafel, I understand, buys his copies direct from the publisher.

Q. Mr. Tafel does?

A. Yes, sir.

Q. What is the Piqua News Company?

A. I do not know that.

Q. Do you know whether there is another wholesaler there—name these five towns where there are

men handling your magazines and others, only, and is the only wholesaler in the town?

A. They handle other magazines, and are the only wholesalers there?

Q. Yes. Will you give me the names of the towns?

A. Yes; Delaware, Piqua, Springfield, Troy and Chillicothe.

Q. All in Ohio?

A. Yes; and that was the case at the time I made the investigation. The status in some of those towns has changed since.

Q. In Delaware, Ohio, your man was McGuire, and he handled the Hearst list, and the Curtis group?

A. Yes, sir.

Q. And also handled the "Chicago Examiner," and the "Cincinnati Inquirer," and the "Ohio State Journal"?

A. Yes, sir.

Q. Is he your agent now?

A. Yes, sir.

Q. And at the time you made this investigation he was the only man there?

A. The only wholesaler there.

Q. And prior to that time, how long had he been there—was he under the old contract?

A. Yes, sir.

Q. And had been there for some time?

A. Yes, sir.

Q. Two or three years?

A. Yes, sir.

Q. He is under the new contract now—do you know that?

A. Yes, sir.

Q. Does he handle the "Pictorial Review"?

A. He does not wholesale the "Pictorial Review."

Q. How do you know that?

A. He told me he did not. I learned it by personal investigation.

Q. That is the way you got that information?

A. That is; yes, sir.

Q. Did you make any inquiry about that to discover whether this man handles it from anybody else?

A. Yes, sir.

Q. As a matter of fact, do you not know that he did handle it and quit it because of the Curtis people's objections?

A. Yes, sir; he did handle it, but not at the time I made the investigation.

Q. When was it he had to drop it on account of the objections on the part of your company?

A. He handled it, as I remember it, about February or March, 1917. I could not be sure as to the exact month.

Q. He had to drop it, did he not?

A. He did drop it.

Q. You objected, did you not—your company objected?

A. Objected to his wholesaling the "Pictorial Review"; yes, sir.

Q. Do you know how many "Reviews" he handled?

A. No, sir.

Q. You said he was under the new contract?

A. Yes, sir.

Q. Now, in Piqua, Ohio, the Tassle Brothers are the only wholesalers there, are they not—wholesale dealers?

A. The only wholesalers.

Q. And handle your magazines and the "Literary Digest." Do they handle "Hearst's" or not?

A. Yes; they handle "Hearst's."

Q. And they handle the "Cincinnati Inquirer"

and "Examiner," and the "Cleveland Plain Dealer," do they not?

A. Yes, sir.

Q. How long have they been your dealers there?

A. Before I came on the territory.

Q. That has been over two years?

A. Yes, sir.

Q. Are they under the new contract?

A. No, sir.

Q. When are you going to put them under the new contract?

A. I do not know whether they will be put under the new contract or not.

Q. Do you know whether they have wholesaled "Pictorial Review" at any time?

A. Not to my knowledge.

Q. You do not know that they had to drop it?

A. No, sir.

Q. At Springfield, Ohio, Bell handles the Hearst's list, "Collier's," your publications and the "Chicago Tribune," "Examiner," and the "Cincinnati Inquirer." How long has he been there in this business?

A. A number of years.

Q. More than two years?

A. Yes, sir; more than two years.

Q. He was under the old contract?

A. Yes, sir.

Q. Is he under the new contract?

A. No, sir.

Q. Do you know whether or not he was asked to take on the "Pictorial Review"?

A. I believe he was.

Q. And he could not do it on account of the objections of your company—is that true?

A. He handled it through one of his employees.

Q. And you objected to it, did you not?

A. He had the choice of handling the "Pictorial Review" or the Curtis publications.

Q. You gave him that choice and he kept on handling the Curtis publications?

A. Yes, sir.

Q. Who is Mummer?

A. That is the employee.

Q. That is the person who is handling the "Pictorial Review" for Bell?

A. Yes, sir.

Q. Is that true?

A. Yes, sir.

Q. How big a town is this?

A. Fifty thousand.

Q. And Bell was the only man there except Mummer, in this business?

A. At that time.

Q. In the early part of 1917, Bell was the only man there?

A. Yes, sir; the only wholesaler.

Q. You have not made any new contracts with them, have you?

A. Not with Bell.

Q. Will you let them stay there?

A. Our agency has been transferred in Springfield.

Q. Who is the man now?

A. Roscoe Peers.

Q. Bell does not handle Curtis any more?

A. No, sir.

Q. Peers is under the new contract?

A. Yes, sir.

Q. Why did you change?

A. For a number of reasons.

Q. Was one of the reasons that Mummer handled the "Pictorial Review"?

A. That was one.

Q. That is the main reason.

A. I will not say it is the main reason.

Q. He had been there a long while as your agent?

A. Yes, sir.

Q. And when you found that out, you wanted to change him?

A. I did consider changing the agency at Springfield before we found that out.

Q. Ralph Dalton was your agent at Troy, and handled several Ohio papers—newspapers? How long did he wholesale your magazines?

A. About two years or a little longer.

Q. That was prior to making this report on February 25?

A. Yes, sir.

Q. Do you know whether he handled "Pictorial Review" or not?

A. He did not.

Q. Or the Crowell publications?

A. No, sir.

Q. Do you know whether he was asked to handle them?

A. I do not think he was.

Q. At Chillicothe, Butler is your agent in the magazine business?

A. Yes, sir.

Q. And handles the Hearst and Munsey group besides?

A. Yes, sir.

Q. And the "Chicago Examiner" and "Tribune" and "Cincinnati Times-Star"?

A. Yes, sir.

Q. Was he the only wholesaler there when you made this investigation?

A. Yes, sir; at that time.

Q. How big a place is this?

A. About 10,000—5000—I have not got the exact figures.

Q. He was a dealer there for quite a period of time was he not?

A. Yes, sir.

Q. More than two years?

A. No, I think not—about one year.

Q. When did he begin—do you know? When did he take on your publications?

A. Our agency?

Q. Yes.

A. October, 1917.

Q. Who was the man there before that?

A. Our agent?

Q. Yes.

A. The Howsman Drug Store.

Q. What did he handle?

A. Curtis publications.

Q. Anything else?

A. No, sir; you mean our agent before Butler?

Q. Yes.

A. No, sir.

Q. Was Butler there when your man was there, handling some magazines?

A. A little while before; yes, sir.

Q. He handled other magazines before yours, did he not?

A. Yes, sir.

Q. Who handles the "Pictorial Review" there?

A. Now?

Q. Yes.

A. Butler.

Q. How long has he been doing that?

A. He was wholesaling—he says now he was wholesaling "Pictorial Review" when he took the Curtis agency.

Q. Then you have not changed him as an agent, but he represented——

A. No.

Q. Are you going to change him in that case?

A. I have not changed him. I do not know. I have not received any instructions whether to do so or not.

Q. Is he under the new contract?

A. Yes, sir; at the time of placing our contract with Butler, he represented to me he was not wholesaling the "Pictorial Review."

Q. You found out since he was.

A. Yes, sir; I found out since he was.

Q. You have not changed him?

A. No, sir.

Q. He can handle the "Pictorial Review" all right there, can he not, without interfering with the handling of your publications?

A. What do you mean by "interfering with the handling of our publications"?

Q. There is no trouble about having time enough to handle your publications and the "Pictorial Review," is there?

A. Oh, I do not know.

Q. Oh, now, speak up and tell us about it.

A. You mean whether he would have the time to handle both publications?

Q. Is he not handling your publications satisfactorily?

A. He is now.

Q. And has been during all this period?

A. Yes, sir; he has been satisfactorily handling it.

Q. How have his sales run—have they increased or not?

A. They have increased because of the increased

population of Chillicothe, on account of the camp being located just outside of Chillicothe.

Q. Is he under the new contract?

A. Yes, sir.

Q. Now, taking the towns we have not mentioned, how many of your men handle newspapers and your magazines?

Q. There are eighteen altogether who do not handle any newspapers.

Q. Now, then, do the remainder handle newspapers?

A. I suppose they do.

Q. And you do not object to taking on a good man as your agent who has been handling newspapers?

A. No, sir.

Q. In the appointment of an agent it would not be against him—against your plan to appoint a newspaper man as the agent, if he could satisfactorily handle your papers, would it?

A. If I felt they would have sufficient time to look after our interests—I would take that into consideration whether he could handle it satisfactorily.

Q. In a case like that, where you appointed him and he wanted to take on another magazine, you would not let him do that?

A. I would not say that.

Q. Is not that your contract?

A. No, sir.

Q. What is it?

A. Our contract is he shall secure the sanction of the Curtis Publishing Company.

Q. He could not do it without asking the Curtis Publishing Company's permission to take on that other publication?

A. It would not be in accord with his contract with the Curtis Publishing Company.

Q. Have you any instances where a dealer, after he took on your publications, asked permission, in your district?

A. I do not believe I could answer that question offhand. I could answer it—state the question again, please.

Q. Have you had any instances where men took on—they were handling newspapers, and you made them your agents and afterwards they were desirous of taking on some other magazine?

A. I do not believe I have a new agent under those conditions. I can tell you in just a moment. None other than Chillicothe.

Q. Chillicothe was the only place?

A. Yes, sir.

Q. If this situation arose, that there was a newspaper man who handled newspapers, and who then took on your magazines, and the "Pictorial Review" wanted him to handle theirs afterwards, you would not agree to—or the "Every Week" publications——

A. That would be up to the Curtis Publishing Company.

Q. Do you not know, as a matter of fact, that is the policy of the company?

A. According to their policy they would object to that.

Q. How did you find out about these men that began with you?

A. Our district agents who began with us?

Q. Yes.

A. By interviewing them personally.

Q. In every case you saw the agent?

A. Except Bryant, Ohio, where I telephoned to him, but I was acquainted with the conditions before that. I knew he began with us.

Q. You did ask every man?

A. Yes, sir.

Q. Notwithstanding the fact you knew the conditions, you still inquired—is that true—in every instance except this one?

A. Yes, sir.

Q. Of your own agent?

A. Yes, sir.

Q. At Wapokoneta—did you cover Wapakoneta?

A. Not in this investigation; no, sir.

Q. Is that district agency in your district?

A. That is in my territory, but I have not been making that town.

Q. You did not ask him whether he was the Curtis agent first?

A. He is not a district agent.

Q. What is he?

A. He is a special agent.

Q. What does he do?

A. He retails and then, if he wants to, wholesales the Curtis publications.

Q. As a matter of fact he does wholesale them, does he not?

A. I could not say whether he does or not.

Q. Does he have a contract with your company?

A. He is not required to wholesale them.

Q. Is he under contract?

A. Yes, sir.

Q. Does he handle the "Pictorial Review"?

A. I do not know whether he does or not.

Q. You did not inquire about that?

A. I did not investigate that town.

Q. Is not this town in your district?

A. Yes, sir.

Q. How did you come to miss it—did you miss any other towns?

A. Not district agency towns.

Q. There, I understand, you had some sort of special arrangement with this man and did not see him?

A. It was a special arrangement.

Q. What is it, then?

A. He is under a different form of contract.

MR. MILBURN: I can answer that. He has not got the restraining clause in his contract.

By MR. DALY:

Q. There is no restraining clause in his contract?

A. No, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. At Chillicothe, how many newspaper wholesalers are there, and tell me the papers each one wholesales—you can look at your reports in answering that.

A. Including Mr. Butler?

Q. Give me all the newspaper wholesalers.

A. Mr. Butler wholesales the "Chicago Examiner," the "Chicago Tribune" and the "Cincinnati Times-Star"; Daniel Cronan handles the "Cincinnati Inquirer," and the "Cincinnati Tribune" and the "Detroit Dispatch"; J. H. Haley, the "Cincinnati Post"——

Q. Who did you say used to be the Curtis agent?

A. A. W. Howson.

Q. And you changed from him to Butler?

A. Yes, sir.

Q. The Army Camp is situated there?

A. Yes, sir; just outside of the town.

Q. Did that have anything to do with changing the agency, if you know?

A. Yes, sir; our former agent could not handle the volume of business. He was a druggist and could not handle it.

Q. What was the druggist's name?

A. Howson.

Q. When he held your agency, Mr. Butler, Mr. Cronan and Mr. Haley were all in that town and open to approach by anybody who wanted a wholesaler of publications?

A. Yes, sir.

Q. In Troy, who was your agent?

A. At the time of the investigation?

Q. Yes.

A. Ralph W. Dalton.

Q. To whom did you change?

A. A boy.

Q. Are there newspaper wholesalers there in addition—if so, give me the number.

A. Yes, sir; Harry Goodrich, handling the "Cincinnati Inquirer," the "Cincinnati Post" and the "Dayton News"; Pearson, handling the "Cincinnati Times-Star," the "Dayton Journal" and the "Dayton Herald."

Q. Can you tell me whether the Curtis publications were the first magazines that Dalton handled at wholesale?

A. Yes, sir; they were.

Q. Do you know that to be the fact?

A. Yes, sir.

Q. Did he handle Curtis magazines before taking on newspapers?

A. You mean before the newspaper wholesalers began——

Q. I did not ask you that at all. I asked whether Mr. Dalton, who was the old agent, handled Curtis magazines before he took on newspapers?

A. He did not wholesale Curtis magazines before he took on newspapers.

Q. He did not wholesale newspapers?

A. No, sir.

Q. At Springfield, the "Pictorial Review" has a wholesale agent, have they not?

A. Yes, sir.

Q. And so have "Every Week"—is that correct?

A. They did have.

Q. His name was Perrin?

A. Yes, sir.

Q. And had you changed from Bell—did you say you did that?

A. I have changed from Mr. Bell.

Q. Is Bell still wholesaling magazines in Springfield?

A. Yes, sir.

Q. And you have a new agent there?

A. Yes, sir.

Q. Who is the new agent?

A. Roscoe Peers.

Q. Is he a boy or an adult?

A. An adult with a large book store.

Q. There are four people engaged in the wholesaling of magazines in Springfield now?

A. Yes, sir; counting the "Pictorial Review."

Q. Including the four names I have just mentioned——

A. Yes, sir.

Q. Do you know who the agent at Piqua is?

A. Our agent is Taffle Brothers.

Q. What did they handle first?

A. The Curtis publications.

Q. And at Delaware, McGuire is your agent?

A. Yes, sir.

Q. Do you know whether he handled the Curtis magazines first?

A. Yes, sir; he did.

Q. And there is another newspaper wholesaler there, is there not?

A. Yes, sir.

Q. Taffle Brothers have handled "Pictorial" at retail, have they not, for some time?

A. Yes, sir.

Q. And reference was made to a check from the Taffle Brothers to the "Pictorial Review." You do not know anything about that—whether for retail or wholesale?

A. I imagine it must have been for retail; I could not say positively.

Q. Did they ever say they did not wholesale "Pictorial"?

A. He said he did not wholesale anything else other than those I have mentioned in the list there.

Q. Is that tantamount to saying he did not wholesale "Pictorial," if "Pictorial" was not on the list?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Now, your business is to see that you get the principal and best man in every city, if you can—is not that true?

A. The best man for our purpose; yes, sir.

MR. DALY: That is all.

J. F. O'NEIL was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. O'Neil, are you employed by the Curtis Publishing Company?

A. Yes, sir.

Q. In what capacity?

A. Superintendent of agencies.

Q. And what district do you cover?

A. Northern Ohio.

Q. How long have you been in that district?

A. About seven months.

Q. You have visited all the towns in it?

A. Yes, sir.

Q. Where you maintain district agencies?

A. Yes, sir.

Q. You are familiar with the local conditions in each of those towns?

A. Yes, sir.

Q. Have you made an investigation in reference to the wholesaling of magazines and newspapers throughout the towns and cities in your district?

A. Yes, sir.

Q. And have reported to Philadelphia on it, have you not?.

A. Yes, sir.

Q. How many towns did you investigate all told?

A. Thirty-two.

Q. And does that mean there are thirty-two district agents?

A. Yes, sir; thirty-two district agents.

Q. In how many of the towns of your district is there only one magazine wholesaler?

A. Ten.

Q. And you understand, in making these computations that you exclude the American News Company or anybody who may be wholesaling the Crowell or Pictorial Review publications?

A. Yes, sir; they were excluded in this investigation.

Q. In how many towns where there is only one wholesaler does he handle Curtis magazines only?

A. Six.

Q. How many of your agents wholesale only Curtis magazines?

A. Twenty.

Q. How many began the magazine wholesale business with the Curtis people?

A. Twenty-eight.

Q. In how many of your towns here the Curtis agents handle other magazines, is that agent the only wholesaler of magazines?

A. Four.

Q. How many of your agents do not wholesale newspapers?

A. Eighteen.

Q. Your duties are general supervision over the agents throughout the district, are they not?

A. Yes, sir.

Q. And you aid them in carrying on the operations of the company?

A. Yes, sir.

Q. At Norwalk, Ohio—did you hear Mr. Boyce's testimony just now in reference to a claim made that you had granted sanction to the district agent at Norwalk, Ohio, to handle Crowell publications?

A. Yes, sir.

Q. Dd you ever give such sanction?

A. No, sir; I never knew the representative who said I made that statement until a week afterwards.

Q. What representative?

A. Mr. Stone, the representative of the Crowell people.

Q. In no instance did you ever grant permission?

A. No, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. How long have you been familiar with this district?

A. Seven months.

Q. You did not know it before?

A. No, sir.

Q. In these ten towns where you say there is only one magazine wholesaler, will you give the names of those towns?

A. I could not give you them offhand. I would have to look at the report.

Q. Now, at Tiffin, Daly is your dealer and handled the Hearst's magazine, "Collier's" and "Pictorial Review," at the time you made these figures, the 25th of February, 1918. How long had he been your dealer there before that time?

A. I do not know the exact time.

Q. More than a year, was he not?

A. Yes, sir.

Q. He was under the old contract?

A. Yes, sir.

Q. Did you put him under the new contract?

A. No, sir.

Q. Why?

A. He was handling "Pictorial Review," and we made a change.

Q. You objected to that and made a change?

A. Yes, sir.

Q. Whom did you put in there in his place?

A. I named a boy named Lem Bentley.

Q. Mr. Daly also handles newspapers at that town, does he not?

A. Yes, sir.

Q. Kenton, Ohio, Humphreys handles your publications and no others?

A. Yes, sir.

Q. There is no other dealer in that town?

A. You mean magazine dealer?

Q. Yes, sir.

A. No, sir.

Q. At Fostoria, Eaton handles your publications, the Hearst list and "Pictorial Review"—he did that

at the time of your investigation. Is he still your agent?

A. No, sir.

Q. What did you do there?

A. I changed agents.

Q. How long had he been there handling your papers?

A. I do not know the length of time.

Q. Do you not know he covered a year or two back?

A. Yes, sir.

Q. He was not a new man?

A. No, sir.

Q. He was under the old contract?

A. Yes, sir.

Q. And you changed him because he was handling "Pictorial Review"?

A. Yes, sir.

Q. Is he still in business there?

A. Yes, sir.

Q. At Fremont, Moorehead handled the "Pictorial Review," Hearst's publications, the Warner publications—who handled yours?

A. We have a boy there who has been named recently.

Q. When did you appoint him?

A. Possibly six or seven weeks ago.

Q. Did you ask Moorehead to handle your publications?

A. No, sir; he was handling "Pictorial Review."

Q. He handled all the newspapers that were handled there, did he not?

A. Yes, sir.

Q. Norwalk, Ohio—Have handled yours, Hearst's and "Pictorial Review"?

A. Yes, sir.

Q. What did you do to him?

A. I changed the agency.

Q. Why?

A. Because he was handling "Pictorial Review."

Q. Whom did you name there?

A. I named a boy—I cannot recall his name now.

Q. This boy can handle them as well as Haas?

A. I think a whole lot better.

Q. How many copies do you distribute?

A. Two hundred and ten copies of "The Saturday Evening Post."

Q. How many "Journals"?

A. About one hundred and fifty, and sixty "Country Gentleman."

Q. Was that about what Haas was handling?

A. No.

Q. More?

A. No; Haas was handling less.

Q. How many was Haas handling?

A. About one hundred and eighty copies of the "Post" and about one hundred and twenty-five "Ladies' Home Journals," and about fifty "Country Gentleman."

Q. And he had an organization of boys?

A. Yes, sir.

Q. What became of those boys?

A. It was a Curtis boy organization.

Q. And you took them over with you?

A. Yes, sir.

Q. Did you get all of the boys?

A. Yes, sir.

Q. I suppose in your district the situation is the same everywhere else, that you object to boys handling other publications, do you not?

A. Not necessarily.

Q. In what instances do you not?

A. Well, in——

Q. How many boys does this new agent of yours have?

A. About seven boys.

Q. Suppose you found all of these boys selling generally "Collier's Weekly," along with your publications—would you agree to that?

A. If the Collier's Weekly Company had got the boys, I would not object.

Q. If they got them, you would not object?

A. No, sir.

Q. If you got them, you would object?

A. Yes, sir.

Q. Are there any instances where Collier's got boys?

A. Not to my knowledge.

Q. In your district that would be true generally?

A. Yes, sir.

Q. And the only boys in that district were generally your own organization?

A. The only boys—well, the boys selling the Curtis publications, as a general rule, are gotten by the Curtis Publishing Company representatives, or the district agents.

Q. Prior to the time of this investigation, Haas was the principal man there, was he not?

A. What do you mean by principal man?

Q. The big news dealer—the only man there?

A. He was the only wholesaler of magazines there.

Q. He was the principal man there and had been there for some time, had he not?

A. Yes, sir.

Q. At Ashland, Ohio, you have a man named Jannier, and he does not handle anything else, but handles the "Cleveland Plain Dealer," the "News" and the "Cleveland Leader." Do you know whether Jannier had these papers before you took him on?

A. I could tell by looking at my reports—(after looking at report). Yes.

Q. Yes, what?

A. He handled the Curtis magazines before anything else—that is, he wholesaled them.

Q. Before he took on newspapers?

A. Yes, sir.

Q. Now, in Fostoria, you had Eaton, and he handled the Hearst publications and "Pictorial Review" and newspapers, both Cleveland and Chicago?

A. Yes, sir.

Q. Now, have you put him under the new contract?

A. Eaton?

Q. Yes.

A. No.

Q. What did you do there?

A. Transferred the agency.

Q. Why?

A. Because he was handling "Pictorial Review."

Q. You gave him his option?

A. Yes, sir.

Q. And he insisted on handling "Pictorial Review"?

A. Yes, sir.

Q. How long had he been there?

A. Several years; I cannot give the exact time.

Q. He handled your publications for quite a period under the old contract, did he not?

A. Yes, sir.

Q. At Ravenna, Ohio, your man Case handled, besides your publications, the Cleveland newspapers?

A. Yes, sir.

Q. He is the only newsdealer there?

A. Yes, sir.

Q. Did you have him under the old contract?

A. He is under the new contract.

Q. And, of course, under the new contract, you would not permit him to handle any other publications?

A. Not without the consent of the Curtis Publishing Company, no.

Q. And if the "Pictorial Review" people wanted him, they could not get him?

A. Not without the consent of the Curtis Publishing Company.

Q. And the Crowell people could not either?

A. Not without the consent of the Curtis Publishing Company.

Q. You know, in those two instances, they would not consent?

A. Yes, sir.

Q. In upper Sandusky, Billheart wholesales newspapers, and is also your man?

A. Yes, sir.

Q. He is the only wholesale dealer in newspapers there, is he not?

A. Yes, sir.

Q. And you would object to his handling "Pictorial" and "Every Week," would you not?

A. Yes, sir.

Q. Now, did Jones, of the Crowell Company, tell you that he made this statement to the agent who testified?

A. No, sir.

Q. How many of these thirty-two towns are below five thousand?

A. One.

Q. All above five thousand, are they?

A. Yes, sir.

Q. Take these ten towns—what is the size of them—how do they run?

A. You want the exact population?

Q. No, give it to me approximately.

A. Well, I should say they would run about 8000—Ashland is about 9000, Fostoria about 10,000, Freemont about 10,000, Tiffin 12,000, Ravenna about 7000,

Cuyahoga Falls, 8000, Cleveland about 690,000, and Kenton——

Q. I did not ask about Cleveland.

A. You asked for the population of these ten towns.

Q. I did not ask anything about Cleveland in this testimony. What do you do in Cleveland?

A. I have supervision over the Cleveland Agency. Kenton is about 7000, and Upper Sandusky 4000.

Q. You have thirty-two towns, with thirty-two agents—one agent in every town?

A. Yes, sir.

Q. And only one agent in Cleveland?

A. Yes, sir.

Q. Who is he?

A. Henry Solomon, of the Solomon News Company.

MR. DALY: That is all—how many of these men in your district are under the new contract?

A. Thirty-one out of thirty-two.

Q. Who is the man not under the new contract?

A. The Toledo, Ohio, man, Mr. O'Donnell.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. Who covered Toledo?

A. Mr. Reynolds, I believe.

MR. DALY: Then, never mind that. Can you tell me why he is not under the new contract?

THE WITNESS: No, I cannot.

By MR. DALY:

Q. Who is he?

A. Mr. O'Donnell. I have not been to that town lately.

Q. What does he handle?

A. The Chicago newspapers, the Cleveland newspapers, the Hearst publications, "Collier's Weekly" and "Literary Digest"; that is all that I know of now.

Q. Not the "Pictorial Review"?

A. No, sir.

Q. Is he the only wholesaler there?

A. No, sir.

Q. Is he the leading wholesaler there?

A. Just what do you mean by leading wholesaler?

Q. Do you not know who is the leading man in an industry?

A. I would not say any other man of the same type would be as much a leader as he.

Q. Is there any other man who handles as large a number of magazines as he?

A. There is another man handling "Pictorial Review," and Warner publications, and "Jim Jam Jems."

Q. He is a new man?

A. I do not think so.

Q. Was he there when the "Pictorial" commenced to sell direct?

A. Yes, sir.

Q. Handling these papers?

A. I am not positive.

Q. As a matter of fact, he went into the business at that time, did he not?

A. No; I think he was handling the "Detroit Free Press" before.

Q. I am speaking now of magazines.

A. I think he was handling "Jim Jam Jems."

Q. He was handling "Jim Jam Jems" at that time, only?

A. I am not positive, but I think so.

Q. And newspapers?

A. The "Detroit Free Press" was the only one I think he was handling.

Q. Then, this man you had under contract was the leading man prior to that time?

A. He was wholesaling more publications than the other fellow.

Q. As a matter of fact, he is the leading man now?

A. He is wholesaling more publications than the other man. I would not say he was the leading man.

Q. Has he good equipment for distributing magazines?

A. He has automobiles.

Q. And he covers all the retailers there?

A. Yes, sir; and so does the other man.

Q. How many retailers are there?

A. About 160 in Toledo, I believe.

MR. DALY: That is all.

RE-DIRECT EXAMINATION (Continued).

By MR. MILBURN:

Q. In Ashland, Upper Sandusky, Ravenna, and Kenton—four of these towns mentioned by you—the only magazine wholesalers wholesale only Curtis publications—is not that true? You can look over your list and verify that.

A. Yes, that is true.

Q. And so, the Curtis Publishing Company is the only publishing company that maintains an independent wholesaler in those towns?

A. Yes, sir.

Q. That same situation is true also with reference to Cuyahoga Falls and another town?

A. Yes, sir.

Q. Those are the six towns in which you referred in answer to one of my preliminary questions?

A. Yes, sir.

By Examiner Moore:

Q. How large is Cuyahoga Falls?

A. Eight thousand.

By Mr. Milburn:

Q. In Fostoria have you changed agents?

A. Yes, sir.

Q. Does the new agent handle any newspapers?

A. No, sir.

Q. In Ravenna have you changed the agency?

A. No, sir.

Q. Do you know when Mr. Case was appointed district agent in Ravenna?

A. I could not give you the exact date, but he has been our agent for quite a while. The report shows September, 1912.

Q. Did he handle newspapers when he was made the Curtis agent?

A. No, sir; he was not handling any newspapers.

Q. In Upper Sandusky, did your agent handle newspapers when he was appointed as Curtis agent? Can you tell me that?

A. No, sir.

Q. He took them on afterwards?

A. Yes, sir.

Mr. Milburn: That is all.

Re-Cross-Examination.

By Mr. Daly:

Q. You spoke about Kenton, Ohio, and not Canton?

A. Yes, sir.

Q. Do you cover Canton, Ohio?

A. Yes, sir.

Mr. Daly: That is all.

H. H. NUTTER was called as a witness on behalf of respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Nutter, are you employed by the Curtis Publishing Company?

A. Yes, sir.

Q. In what capacity?

A. As superintendent of agencies.

Q. What district do you cover?

A. At present?

Q. Yes. What district do you cover?

A. Indiana, with the exception of three towns, and one town in Ohio.

Q. Did you make an investigation with reference to the wholesale situation in your business?

A. Yes, sir.

Q. In the district you are now working in?

A. Yes, sir.

Q. How many cities did you cover?

A. Forty-five.

Q. Did you make a personal investigation in each of these forty-five towns?

A. Yes, sir.

Q. And have you familiarized yourself with the situation with reference to the wholesaling of newspapers and magazines?

A. Yes, sir.

Q. In how many of the towns covered by you is there only one magazine wholesaler?

A. Thirty-two.

Q. In how many of the towns where there is only one magazine wholesaler does he handle the Curtis magazines only?

A. Twenty-one.

Q. How many of your agents wholesale only Curtis magazines?

A. Thirty-one.

Q. How many began the magazine wholesale business with the Curtis Publishing Company?

A. Thirty.

Q. In how many of your towns where the Curtis Publishing Company agents handle other magazines, is that agent the only wholesaler of magazines?

A. Eleven.

Q. How many of your agents do not wholesale any newspapers?

A. Twenty-eight.

Q. In making these computations did you exclude the "Pictorial," Crowell publications and the American News Company agents?

A. Yes, sir.

Q. In reference to Peers, of Manitowoc, it has been testified in these proceedings that he handled the "Pictorial Review" by subterfuge and that he did so with your consent and at your suggestion. Did you either consent to his handling "Pictorial Review" by subterfuge or suggest his so doing?

A. No, sir.

Q. How did you find out he was handling it by subterfuge?

A. I could not tell you. That was not my territory. It was a good while after that, though——

Q. You know you never gave him your consent?

A. No, sir, I did not.

Q. L. R. Kilpatrick testified in this proceeding and stated that you told him not to go to the news dealers' meeting called by Mr. Mackinnon in Chicago and you asked him to drop his "Pictorial" contract.

Did you tell him not to go to the meeting, or ask him to drop his contract with the "Pictorial Review"?

A. No, sir.

Q. Did you ever have any conversation with him at all?

A. Yes, sir.

Q. What was it?

A. Over the telephone. I asked if he was going to Chicago, and he said, "No. Why?" I said, "I am up here and I thought if you were coming I would see you." I exchanged a few words about his agency, probably.

Q. Was Mr. Holl present with you when you talked with him over the telephone?

A. Yes, sir.

Q. And heard what you said?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. What was the meeting at Chicago?

A. Really I do not know. I could not tell you to save my life what the meeting was.

Q. What was it you said about the meeting?

A. I did not say anything about the meeting.

Q. You did not discuss the meeting at all?

A. No, sir.

Q. What did you tell Mr. Milburn about that conversation over the telephone?

A. I called him up in Chicago and asked if he was coming to Chicago, and he said, "No, why?" I said, "I thought if you were I would see you."

Q. You did not have a meeting in mind at all?

A. I do not know that I did.

EXAMINER MOORE: I understood you to testify you asked him if he was coming to the meeting?

A. No, sir.

By MR. DALY:

Q. Why did you call him up?

A. At the suggestion of Mr. Holl.

Q. Did Mr. Holl tell you anything about the meeting in Chicago?

A. I think he did.

Q. As a matter of fact, you knew there was going to be a meeting of the wholesalers there in Chicago?

A. I, myself—I do not know that I did.

Q. Did not Mr. Holl tell you?

A. There was something going on.

Q. And you called him up—you really wanted to know if he was going to the meeting—is not that what you called him up to find out?

A. If he was going to Chicago.

Q. And he said he was not—is that true?

A. Yes, sir.

Q. Why were you anxious to know whether he was going to the meeting in Chicago?

A. Well, I was not particularly anxious.

Q. Who was?

A. Well, as I say, I called him up at the suggestion of Mr. Holl.

Q. Mr. Holl wanted to know, did he not?

A. I do not know; you will have to ask Mr. Holl.

Q. Well, give me these eleven cities where you have spoken about——

A. Indianapolis, Mishawaka, Evansville, Brazil, Muncie, Michigan City, Lafayette, Gary, Ellwood, Anderson and South Bend.

Q. Will you give me the populations of those cities

—you need not give them in each case, but include them between two numbers—that will be near enough.

A. Oh, from about 11,000 to 275,000.

Q. Now, at South Bend your dealer was Gardiner?

A. Yes, sir.

Q. And he handled your papers, the Hearst papers, "Literary Digest," and there is, in lead pencil on your report "C'rowell"—is that correct?

A. Yes, sir; I think that is correct. Of course, that is——

Q. How long has he been your dealer there?

A. I could not tell you offhand.

Q. How long have you worked in that district, Mr. Nutter?

A. About eight or nine months.

Q. Was he there before you went into the district?

A. Yes.

Q. He had been there for some time?

A. I do not know, sir.

Q. Do you not think he was there when this independent movement began in April, 1917?

A. Yes, sir; I think so.

Q. And prior to that time he was the only wholesale news dealer there, was he not?

A. Yes, sir; I think so.

Q. He was under your old contract at that time?

A. Yes, sir.

Q. Have you put him under the new contract?

A. Yes, sir.

Q. Have you ever notified him to quit?

A. No, sir.

Q. Do you know whether or not your company has?

A. I do not.

Q. You do not know anything about that at all?

A. No, sir.

Q. Have you seen him within the last several months or not?

A. Well—

Q. When did you see him last?

A. I can give you the date, I think. It is along in, I should judge, March or something like that. I forget when I was in South Bend last. Maybe it was before that. South Bend, I believe, was February 20th. I think that was the last time I was there.

Q. Did you discuss with him changing him in any way at that time?

A. No, sir.

Q. Did he handle C'rowell at that time?

A. I think he did.

Q. Did you object to his handling C'rowell?

A. I never said a word to him about it.

Q. Is it not part of your business to find out what these men are handling?

A. Yes, sir.

Q. What did you do when you found he was handling the C'rowell publications?

A. I just reported it to the home.

Q. And you never heard anything about it since?

A. About C'rowell?

Q. You reported he was handling C'rowell, did you not?

A. Yes, sir.

Q. Do you not know that he has been notified since that time to quit or his agency would be cancelled?

A. I do not.

Q. Do you not know, as a matter of fact, that is the policy of your home—is not that what you do in your district?

A. Yes, sir; in certain instances.

Q. What instances?

A. In most of the instances.

Q. Who is E. M. Cosjeuski—he is the "Pictorial Review" man there, is he not?

A. Yes, sir.

Q. And he does not handle anything else?

A. Not in the magazine line that I know of.

Q. He handles some newspapers?

A. I think so.

Q. Your man Gardiner handled all the Chicago newspapers there, did he not?

A. I would not say whether he handled them all or not.

Q. Do you know whether or not Gardiner was handling the Chicago papers before you made him your agent?

A. It is all on there. (Indicating report.)

Q. It is not on here.

MR. WELCH: What is the town?

MR. DALY: South Bend.

By MR. DALY:

Q. Do you know, as a matter of fact, that advertisements have been inserted in the papers in South Bend for a dealer to handle your publications?

A. Yes, sir.

Q. You do know they were trying to change him, do you not?

A. No, sir; I do not.

Q. What are the advertisements for?

A. To find out some prospective agent.

Q. Why would you want a prospective agent unless you were going to make a change?

A. I often do it myself, even if he is a good agent —I do that often.

Q. Did you do it in this case?

A. No, sir.

Q. You think they were advertising just for the fun of it?

A. I do not know.

MR. MILBURN: He was handling newspapers before handling the Curtis magazines, I find from the records.

By MR. DALY:

Q. Anderson, Indiana—Ralph Reynolds handles the Hearst magazines, "Literary Digest" and "Collier's." Your paper does not show here, whether you have a man there or not. Does he handle your publications?

A. Yes, sir.

Q. How long has he handled them?

A. I could not tell you that—for two or three years or more.

Q. He was handling them under the old contract?

A. Yes, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. He is the only wholesale dealer there, is he not?

A. I think so.

Q. He handles all the newspapers that are handled there?

A. I think so; if it is on there, he does.

Q. That is what your report says. I think you said he was under the new contract?

A. Yes, sir.

Q. At Elwood, Indiana, Bowen, when you made this investigation, the 7th of March, 1918, was your dealer, and handled Pictorial and Hearst?

A. Yes, sir.

Q. And also some newspapers?

A. Yes, sir.

Q. He was the leading man there, was he not, and, in fact, the only dealer in magazines there?

A. Yes, sir.

Q. Now, what have you done with him?

A. Transferred it.

Q. To whom?

A. Well, I will have to see.

Q. You gave him his choice, I suppose, to handle your papers or quit handling the "Pictorial Review"?

A. No, I do not think I did. The house did, I suppose.

Q. You changed him?

A. Yes, sir.

Q. At Gary, Kleinschmidt handled your publications, Hearst's, Munsey's and the Chicago papers. Do you know whether or not he handled the Chicago papers before he took on these publications?

A. I do not know.

Q. Does not your record show that?

A. I suppose so.

MR. WELCH: We will get that.

By MR. DALY:

Q. He is the only wholesale magazine dealer there?

A. I think he was.

Q. And he still is?

A. No, sir.

Q. What have you done with Kleinschmidt? Did he sell out?

MR. MILBURN: Kleinschmidt was handling newspapers when he took on our contract?

By MR. DALY:

Q. When did Kleinschmidt give up your agency—why did you change him?

A. Because he was handling "Pictorial Review."

Q. Do you now know when that was?

A. No; I do not know exactly.

MR. MILBURN: Well, approximately.

By MR. DALY:

Q. It was since the time of this independent movement, was it not—since April?

A. This year?

Q. Yes.

A. I think so.

Q. How long had he handled the "Pictorial Review"?

A. I do not know.

Q. How long have you been in this district?

A. In this district I have been eight or nine months.

Q. Is that all?

A. Yes, sir.

Q. What kind of investigation did you make at Gary?

A. At Gary?

Q. Yes.

A. The usual investigation.

Q. By thorough investigation, seeing all the retail dealers and circulation managers of the local papers—did you cover the situation in that way?

A. I think I did.

Q. And you did not learn how long he had been handling "Pictorial"?

A. No, sir; I did not ask that.

Q. You did not think to ask that?

A. No, sir.

Q. He is not under the new contract, because you have cut him off?

A. No; I have just transferred the agency.

Q. You put that new agency under the new contract?

A. Yes, sir.

Q. What has become of the Curtis boys?

A. I suppose they went with their agency.

Q. Did you attend to that?

A. I gave the list to the agent.

Q. And you have heard nothing since?

A. No, sir.

Q. At Lafayette, there is Shively. Have you changed Shively?

A. Yes, sir.

Q. Is he under the new contract?

A. Yes, sir.

Q. He is the leading wholesaler in that town, is he not—the chief wholesaler of magazines?

A. I think he is the only wholesaler of magazines.

Q. You have H. J. Shilling handling "Pictorial Review." He is a druggist, is he not?

A. I do not know.

Q. The report shows he is a druggist.

A. I think he is.

Q. Do you know how he distributes his papers?

A. No, sir.

Q. In Jefferson City, Indiana, the Office Equipment Company handles your magazines, Hearst's and "Collier's" and is the only wholesaler there. How long have they been there?

A. I do not know. Two or three years.

Q. You say you got your information by talking to retail magazine dealers. How many retail dealers did you talk to?

A. I could not say.

Q. Do you know how many there are in that city?

A. No, I could not say.

Q. Could you name one that you talked to?

A. Yes, sir; I think I could.

Q. Who is he?

A. I think he has a gents' furnishing store. I could not name it.

Q. You do not remember the name—you are not familiar enough with the district to know who he is?

A. No, sir.

Q. Does the Office Equipment Company cover all the retailers in the town?

A. Yes, sir.

Q. Did you put them under the new contract?

A. No, sir; I changed them

Q. Whom did you put in there?

A. A young man.

Q. Why did you make the change?

A. Because they were handling "Pictorial Review."

Q. How long did they handle it?

A. I do not know that.

Q. Did they take on the Crowell publications?

A. I could not say.

Q. Now, in Muncie, Reed was your agent and he handled "Hearst's," the "Digest" and "Collier's." How long had he been there?

A. Oh, ten or twelve years.

Q. I do not expect you to tell the exact date, but some approximate time.

A. Ten or twelve years.

Q. He was a good man?

A. Yes, sir.

Q. And had proper equipment for distributing magazines?

A. Fairly good.

Q. And he was under your old contract and you put him under the new contract?

A. Yes, sir.

Q. When did you do that?

A. A couple of weeks ago.

Q. And who is Theodore Stauff, over there—do you know?

A. No, sir; I do not know.

Q. Do you know what he does—he handles "Pictorial Review," does he not?

A. No, sir.

Q. What did you find out about Stauff?

A. Nothing except what is on the report.

Q. You got your information from retail dealers?

A. Yes, sir.

Q. How many did you see at Muncie?

A. I suppose six, eight or ten.

Q. Can you name one that you saw?

A. No, sir; I could not give you the name.

Q. As a matter of fact, Stauff is a "Saturday Evening Post" boy, who works for Reed in that town, does he not?

A. I do not think so.

Q. You do not know?

A. No, sir.

Q. Did you ever hear any member of your staff say that?

A. No, sir.

Q. At Brazil, Indiana, how big a place is that?

A. Brazil is 10,500 or 11,000.

Q. Hesterly represents you and the Hearst magazines, and Pictorial?

A. Yes, sir.

Q. How long has he been there?

A. I suppose a couple of years.

Q. Was he under the old contract?

A. Not now, he is not.

Q. He was.

A. Yes, sir.

Q. And you put him under the new contract?

A. No, sir.

Q. What did you do there?

A. He went to the war.

Q. And you changed the agency?

A. Yes, sir.

Q. You would have changed it anyway, because he was handling "Pictorial"?

A. Yes, sir.

Q. Prior to his going to war, he was the only one there, and had been, for a long period of time?

A. Yes, sir.

Q. He also handled the leading newspapers, did he not?

A. Yes, sir; I think so.

Q. At Evansville, Indiana, Arthur L. Fisher was your dealer, was he not?

A. Yes, sir.

Q. And he handled "Hearst's," "Munsey's," the Warner group and Curtis?

A. Yes sir.

Q. What became of him?

A. I transferred the agency.

Q. Why?

A. He was using a subterfuge.

Q. What sort of a subterfuge?

A. Handling "Pictorial Review."

Q. How was he handling it?

A. Under the name of the Evansville News Supply Company.

Q. And you changed him?

A. Yes, sir.

Q. Did you make the change personally?

A. Yes, sir.

Q. How long had he been your agent?

A. I do not know.

Q. Several years?

A. Yes, sir.

Q. He was a good man?

A. Fairly good; yes, sir.

Q. And he delivered your papers satisfactorily, did he not?

A. Yes, sir.

Q. As a matter of fact, he went to war, did he not?

A. He had not when I was there.

Q. Did he talk to you about going to war?

A. He said he thought he would have to go to war.

Q. Did he ask if he could not continue handling the agency through his sister?

A. No, sir. Not to me.

Q. When you were about to take the agency from him, as a matter of fact, did he not appeal to you to let him remain there?

A. No, sir; I do not think he did. He said he hated to leave it. He said something, but I am not positive.

Q. Did he not say he would like his sister to handle it—was not the conversation something like that?

A. I do not think so.

Q. Well, you made no suggestions about how your magazines could be handled when he was gone?

A. No, sir; I do not think so.

Q. He handled quite a large number of newspapers as well as magazines?

A. Yes, sir.

Q. Do you know what were handled first in the way of magazines or newspapers—did he handle your publications first?

A. I do not know.

Q. Do you not know Evansville pretty well?

A. No, sir.

Q. You are a new man in that territory?

A. Yes, sir.

MR. MILBURN: For the record I will state that he was wholesaling papers, first.

By MR. DALY:

Q. And other magazines?

MR. MILBURN: And other magazines.

By MR. DALY:

Q. At Mishawaka, Peers Brothers were the only wholesalers?

A. Yes, sir.

Q. Have you changed them?

A. No, sir.

Q. He was not handling "Pictorial Review" by subterfuge?

A. That is what his testimony shows.

Q. He is still your representative?

A. Yes, sir.

Q. Who is W. A. Bordley, down there?

A. A cigar dealer and news dealer.

Q. He was a retailer until recently?

A. He was a wholesaler when I was there.

Q. He wholesaled nothing but the Crowell publications?

A. Well, I believe that is right.

Q. And Peers Brothers handled the Chicago papers?

A. Yes, sir.

Q. Do you know whether they handled newspapers or any magazines, before they took on the Curtis publications?

A. I could not tell.

MR. WELCH: He was handling papers and magazines prior to that.

By MR. DALY:

Q. Did you put him under the new contract?

A. No, sir.

Q. Are you going to?

A. No, sir.

Q. He is a capable man in that business?

A. Fairly good, yes, sir.

Q. Does he handle "Pictorial Review"?

A. I think he is, under a subterfuge, as he says. I do not know whether he has changed or not. I have not been there since I was at South Bend.

Q. At Indianapolis, H. R. DeWolf handles the

Curtis group, "Hearst's," "Munsey's" and "Literary Digest" and also the "Cincinnati Examiner," the "Chicago American" and "Louisville Courier." Is he an old man in the business in that town?

A. No, sir.

Q. How new is he?

A. He has been there two or three years, possibly.

Q. What did he handle before handling your papers?

A. I do not think he handled anything.

Q. Did he handle newspapers or magazines prior to handling yours?

A. I do not think he did. You will have to give me the reports, in order to answer that.

MR. WELCH: He did not handle any newspapers or magazines at the time he took on the Curtis publications?

By MR. DALY:

Q. Do you know who Harry Boyle is, in Indianapolis?

A. I have seen him a few times only.

Q. What does he do—he has not any established business of any kind, has he?

A. I do not know whether he has or not.

Q. Is DeWolf under the new contract?

A. Yes, sir.

Q. When did you put him under it?

A. The first of the year—along about—I do not know exactly.

Q. Now, there were twenty-one towns where there was only the Curtis wholesaler. Are there any other changes which have been made in your district about which you have not testified?

A. In making new agents?

Q. Changing from the old to the new?

A. New contracts?

Q. No, old agents to new agents?

A. Yes, sir.

Q. Now, can you give me the instances that you have not testified about that have been changed because they handled either Crowell or "Pictorial Review" or some other publication?

A. You do not want those that have been changed because they have gone to war, or things like that?

Q. No; I do not care about that.

A. Peru.

Q. Why did you change there?

A. Because he handled "Pictorial Review."

Q. Who was he?

A. Engledge.

Q. Was he the only dealer there?

A. The only wholesaler there, I think.

Q. What did he handle?

A. Everything almost that he could get in the magazine line—I will not say that, but he handled a good stock of magazines.

Q. You did not include Peru in these eleven towns; you gave me eleven towns as being the only places where there were people who handled other magazines and yours.

MR. MILBURN: The figure 11 you gave in answer to my question "In how many of your towns where the Curtis agent handles other magazines is that agent the only wholesaler." Is that correct?

A. Yes, sir.

By MR. DALY:

Q. Mr. Nutter, in Hartford City, Goshen, French Lick, Seymour, Decatur, Crawfordsville, Columbus, Connersville, Bedford, Portland, and Kendleville, your man is the only wholesaler there?

A. I think that is right.

Q. Are they under the new contract, Mr. Nutter?

A. Not all of them.

Q. Part of them?

A. Yes, sir.

Q. It is your intention to put them all under the new contract?

A. Yes, sir.

Q. Do you know what the population of those towns is?

A. I can give it to you. Columbus, Indiana, is 9000.

Q. And Kendleville?

A. Kendleville is over 5000.

Q. And Hartford City?

A. About 6000.

Q. And Goshen?

A. About 9000.

Q. French Lick?

A. Only about 2500.

Q. Seymour?

A. Seymour is about 5000, I should judge.

Q. Decatur?

A. About 5000.

Q. Crawfordsville?

A. Crawfordsville is about 11,000.

Q. Columbus?

A. About 9000.

Q. Connersville?

A. About 10,000.

Q. Bedford?

A. About 10,000.

Q. Engledge is your wholesale dealer and handles the Hearst, Munsey and Pictorial publications. Can you tell me how long he has been a wholesale dealer there at Peru?

A. Several years, I think.

Q. Who is Joseph M. Loveland?

A. Our district agent.

Q. How long has he been your district agent?

A. Since this spring.

Q. Prior to that time, Englidge was the only man there?

A. Yes, sir.

Q. He was under contract with you?

A. Yes, sir.

Q. He handled "Pictorial Review," and, I presume, you changed him on account of that?

A. Yes, sir.

Q. And also handled the leading newspapers that were handled there?

A. Yes, sir.

Q. In fact, all the newspapers?

A. Yes, sir.

Re-Direct Examination.

By Mr. Maurer:

Q. In Peru, you left the big and ugly wholesaler and appointed another man?

A. Yes, sir.

Q. And you have done that in other towns?

A. Yes, sir.

By Mr. Dale:

Q. Do you know whether or not in Peru that man Englidge handled your publications prior to anything else?

A. I do not know whether he did or not.

Mr. Maurer: He said in the report he began wholesaling newspapers at the same time he began handling our publications. He had no connection before that.

3125

By Mr. Milburn:

Q. What is your agent's name at Anderson?

A. Ralph T. Reynolds.

Q. Do you know whether he was wholesaling any other magazines when he took the agency?

A. I do not think he was—no, no other magazines.

Q. At Elwood, did your agent Bowen handle any other magazines before he took on the Curtis publications?

A. No, sir; no other magazines.

Q. Did he handle any newspapers when he took on the Curtis publications?

A. No, sir.

Q. Kleinschmidt did not handle any other magazines when he took your business on, but was wholesaling newspapers—is that correct?

A. Yes.

Q. And Kleinschmidt is located in what town?

A. Gary.

Q. And you have made a change there, as you have testified?

A. Yes, sir.

Q. And does your new man there wholesale any other magazines or newspapers?

A. No, sir.

Q. He is confined entirely to Curtis work?

A. Yes, sir.

Q. And at Lafayette, has a new man been appointed in place of Shively?

A. No, sir.

Q. He began his business with the Curtis Company and did not handle newspapers or magazines before that?

A. No, sir; that is correct.

Q. Is the same thing true with reference to Michigan City; that is, that C. Myers—who is the district agent at Michigan City?

A. It is the Office Equipment Company, Mr. Robertson——

Q. Did they handle any newspapers or magazines before they took on the Curtis publications?

A. No, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. Shively took over somebody else's business?

A. Yes, sir.

Q. Whose was it?

A. I do not know; I was not in the territory at that time.

Q. What did he take over with it?

A. I think he took over the Chicago papers.

Q. How did you find out?

A. He told me.

Q. How about this agency before that time—did it not have the Chicago papers? Did not this man Mulcahy handle the Chicago papers for a long time?

A. I suppose so; I do not know.

Q. How do you figure he took on the papers and Curtis at the same time—he took them all on at the same time, did he not?

A. Yes, sir.

MR. MILBURN: What agent are you talking about?

A. Shively, of Lafayette.

MR. DALY: That is all.

MR. MILBURN: That is all.

EDGAR B. KERNAN was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you employed by the Curtis Publishing Company, Mr. Kernan?

A. Yes, sir.

Q. In what capacity?

A. Superintendent of agencies?

Q. What district do you cover?

A. Tennessee and Kentucky.

Q. How many towns are there in your district?

A. Thirty-two.

Q. Did you make an investigation with reference to these thirty-two towns, and, on that investigation, report to the Curtis Publishing Company, showing the wholesale situation in that district?

A. Yes, sir.

Q. Are all these thirty-two towns in your district, or did you investigate some on the outside?

A. Nine are on the outside of my district.

Q. All that nine you are familiar with and you have been in them repeatedly?

A. Yes, sir.

Q. What did you do by way of investigating—did you make personal visits to these places?

A. Yes, sir; to every town.

Q. Can you tell me, as the result of that investigation, in how many of the towns covered by you is there only one magazine wholesaler?

A. Fifteen.

Q. In how many of the towns where there is only one wholesaler does he handle the Curtis magazines only?

A. Five.

Q. How many of your agents wholesale only Curtis magazines?

A. Nineteen.

Q. How many began the business of wholesaling magazines with the Curtis publications?

A. Twenty-nine.

Q. In how many of your towns where the Curtis

agents handle other magazines, is that agent the only wholesaler of magazines?

A. Ten.

Q. How many of your agents do not wholesale any newspapers?

A. Twenty-seven.

Q. In computing these figures, you excluded any agent who might be wholesaling "Pictorial" or Crowell, did you, and the American News Company branches as well?

A. Yes, sir.

Q. You give these figures as of the date of the investigation?

A. Yes, sir.

Q. And have you had any changes since the investigation?

A. No, sir.

Q. How many agencies have you changed because of handling "Pictorial"?

A. One.

Q. For Crowell, any?

A. No, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. Give me the ten towns where there are dealers who handle yours and other magazines.

A. Tuscaloosa, Alabama; Bessemer, Alabama; Huntsville, Alabama; Gadsden, Alabama; Augusta, Georgia; Nashville, Tennessee; Henderson, Kentucky; Madison, Indiana, and Lexington, Kentucky.

Q. At Tuscaloosa the Oak City Drug Company handles your magazines "Hearst's," "Literary Digest," "Collier's," Red Star group, Warner group and "Pictorial Review," and they were the only wholesalers there, were they not?

A. Yes, sir.

Q. And had been for quite a period of time?

A. I do not know.

Q. Do you not know how long they had been there?

A. No, sir.

Q. How long were you in that business?

A. I was there only one day.

Q. Was that the only time you were there?

A. Yes, sir; that was the only time.

Q. You do not know whether they were handling them before——

A. No, sir.

Q. You do not know whether they were under the old contract?

A. No, sir.

Q. You do not know whether they have been put under the new contract?

A. No, sir.

Q. You have not changed them?

A. No, sir.

Q. This is one of the towns outside of your district?

A. Yes, sir.

Q. How did you get the information—by going over and asking the men?

A. Yes, sir.

Q. At Nashville, Tennessee, Ziebert Brothers handle yours, "Hearst's" and "Pictorial Review"?

A. Yes, sir.

Q. Do they still handle "Pictorial Review"?

A. I suppose so.

Q. Have you changed them?

A. No, sir.

Q. Why?

A. I have not been instructed to do so.

Q. How long has Ziebert been your agent?

A. More than a year.

Q. He was under the old contract?

A. Yes, sir.

Q. Have you put him under the new contract?

A. No, sir.

Q. Has Ziebert more than one store in that place?

A. Yes, sir.

Q. How many has he?

A. I suppose twelve.

Q. You have talked with him?

A. Yes, sir.

Q. He is the biggest dealer there?

A. Retailer; yes, sir.

Q. And he handles these goods at wholesale as well?

A. Yes, sir.

Q. Do you know what part of the Curtis publications in that town are sold through his stores?

A. Ask that question again, please.

Q. What percentage of the Curtis publications are sold through his stores in that town—approximately what—at retail? Do you know?

A. I would approximate thirty per cent. of the draw of the town.

Q. Who sold the others?

A. The hotels and other newsstands, drug stores and boys—mostly boys.

Q. Now, Zeibert Brothers also handle some Louisville papers and Cincinnati papers?

A. Yes, sir.

Q. The "Cincinnati Inquirer" and "Louisville Courier and Journal"?

A. Yes, sir.

Q. Do you know how he first went into business?

A. How do you mean that?

Q. Well, I mean did he handle newspapers or any magazines before he took on the Curtis publications?

A. He handled no magazines.

Q. Did he handle newspapers prior to that?

A. Yes, sir.

Q. Madison, Indiana. Do you know whether or not he handled "Munsey's" before he took on the Curtis publications?

A. His Curtis was his only magazine wholesale contract.

Q. He told you that?

A. Yes, sir.

Q. At Madison, Indiana, Charles Geile handled Curtis and "Red Star," and is the only man there in the magazine business?

A. Yes, sir.

Q. And also handles the "Indianapolis News" and is the only news dealer there?

A. He handles the "Indianapolis News" for another party.

Q. He was under your old contract?

A. You asked me about his being the only Indianapolis news dealer.

Q. I am speaking of Madison now—Charles Geile.

A. You asked who was the Indianapolis news dealer, and I said Geile handles the "Indianapolis News" in another man's name.

Q. He was under your old contract?

A. Yes, sir.

Q. But you put him under the new contract?

A. Yes, sir.

Q. At Gadsden, Alabama, how did you get this information—did you go there?

A. Yes, sir.

Q. L. S. Walker handles the Curtis, "Hearst's," "Digest," and is the only man there?

A. Yes, sir.

Q. Is he under the new contract?

A. I do not know.

Q. He was under the old contract, was he not?

A. I suppose so.

Q. At Bessemer, Alabama, Pegram & Patton handle yours and "Hearst's," and is the only one there?

A. Yes, sir.

Q. Is he under the new contract?

A. I do not know.

Q. He has been there some time?

A. I do not know.

Q. At Henderson, the Lutz News Company handles yours, "Hearst's," "Pictorial Review"—at the time you made this investigation, which was the second month, 28th day, 1918—and was the only one there?

A. Yes, sir.

Q. Have you changed him?

A. No, sir.

Q. Have you been instructed to change him?

A. No, sir.

Q. That agency also handles all the newspapers that are handled there. At Newland, Georgia, the Lee Drug Company handles yours and "Hearst's," and is the only one there, and is under the old contract, I suppose?

A. Yes, sir.

Q. At Augusta, Georgia, Farr handles yours, "Hearst's," "Literary Digest" and "Pictorial"?

A. Yes, sir.

Q. Do you know whether he has been changed?

A. I do not know.

Q. Did you say anything to him about handling "Pictorial"?

A. To whom?

Q. Mr. Farr?

A. When?

Q. When you saw him last? ?

A. I did not see him.

Q. Where did you get this information?

A. I saw his clerk.

Q. At Huntsville, Indiana, W. B. Hill handles the

Curtis, "Pictorial" and "Hearst's." Was he under contract with you or not?

A. My impression is he was not.

Q. Your report says, "Our agent, not under contract." He still handles "Pictorial," does he?

A. I suppose so.

Q. And also handles all the papers that are handled there?

A. Yes, sir.

Q. Why did you not put him under contract?

A. I do not know.

Q. You are a new man in that territory?

A. I was doing that work to help out the man in that territory.

Q. Who is the man in that territory?

A. Griffin.

Q. At Lexington, Kentucky, E. W. Speers handles the Curtis magazines, "Hearst's" and "Literary Digest." He has been there for some time?

A. Yes, sir.

Q. And was under the old contract?

A. Yes, sir.

Q. Have you put him under the new contract?

A. Yes, sir.

Q. He is the only wholesale dealer there excepting the American News Company—is that correct?

A. The only what?

Q. The Union News Company—is that the American News Company?

A. A branch of the American News Company.

Q. They do not wholesale there?

A. No, sir.

Q. Retailers?

A. Yes, sir.

Q. At Lexington, Kentucky, Seers wanted to handle the "Pictorial Review"?

A. Wanted to?

Q. Yes.

A. Not to my knowledge.

Q. Never said anything to you about it?

A. He took it direct for retail sale.

Q. You know Speers—will you look at that letter (handing paper to witness)?

A. That is his writing.

Q. This letter is dated Lexington, Ky., 3/5/17, from Spears to the "Pictorial Review," and we offer it in evidence.

MR. WELCH: No objection.

EXAMINER MOORE: The letter will be received in evidence without objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 212," and the same is as follows):

COMMISSION'S EXHIBIT No. 212.

"E. W. Spears, Proprietor,

FAYETTE CIGAR COMPANY

Fayette National Bank Building

Lexington, Ky., 3/5/17.

The Pictorial Review Co.

New York, N. Y.

Gentlemen:

Owing to our contract with the Curtis Publishing Co. and their objection we are unable to accept the agency of Pictorial Review.

Thanking you for the offer, we are,

Yours very truly,

FAYETTE CIGAR CO.

E. W. Spears."

By MR. DALY:

Q. At Frankfort, Kentucky, your agent was Guy B. Barrett, and he handles all the newspapers that are handled in Frankfort?

A. Word that question again.

Q. I say that Barrett, your agent, handles nothing but your publications and all the newspapers that are handled there—is that true?

A. Yes, sir.

Q. Do you know whether or not he wholesales "Pictorial" or wanted to handle it?

A. No, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You understand, do you not, that where these agents have taken on "Pictorial" they will be changed?

A. Yes, sir.

Q. And when you get around to the men in your district you will change them?

A. Yes, sir.

Q. Under instructions from the home office?

A. Yes, sir.

MR. MILBURN: That is all.

A. J. HOLL was called as a witness on behalf of the respondent, and, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Are you employed by the Curtis Publishing Company?

A. Yes, sir.

Q. What is your position?

A. Supervisor of the Eastern Division.

Q. Did you investigate any towns and make a report on them to the Curtis Publshing Company, to find out what the situation was with reference to the wholesaling of magazines and newspapers?

A. I did.

Q. You did that under instructions from the company?

A. Yes, sir.

Q. How many towns did you investigate?

A. Two.

Q. Will you give their names?

A. Yes, sir.

Q. Give their names.

A. Warren, Pennsylvania, and Ridgeway, Pennsylvania.

Q. In Warren, Pennsylvania, there is only one magazine wholesaler, is there not?

A. Yes, sir.

Q. He handles the Hearst's, Warner's group, Curtis and "Pictorial Review"—is that true?

A. Yes, sir.

Q. He will be changed?

A. He surely will be. It is my understanding he has already been changed, although I am not sure of it.

Q. That is the Highland News Company?

A. Yes, sir.

Q. They also handle the "Buffalo Courier," the "News" and "Express," and other papers?

A. Yes, sir.

Q. And Seigfred's drug store is another newspaper wholesaler in Warren, isn't that true?

A. Yes, sir.

Q. What is the other town?

A. Ridgeway, Pennsylvania.

Q. How many magazine wholesalers are there there?

A. Just one.

Q. He handles the Curtis publications?

A. Yes, sir.

Q. Anything else?

A. No, sir.

Q. What is the situation there with reference to the newspapers?

A. There is no newspaper wholesaler there, with the exception of Mr. D. T. Phelps, who delivers a few Sunday papers in South Ridgeway, I think.

Q. Mr. B. R. Kilpatrick testified during this hearing that you tried to persuade him to give up the "Pictorial Review" in a wholesale way, and you offered him a Curtis salary sufficient to offset any profits he had made in handling "Pictorial Review"?

A. I made no such offer.

Q. Did you try to persuade Mr. Kilpatrick to quit handling the "Pictorial Review"—did you have any talk about it?

A. Yes; do you want to know the circumstances?

Q. Yes.

A. Mr. Kilpatrick, at the time of his appointment as Curtis agent, was handling "Pictorial Review" from the branch of the American News Company. My object in going to see Mr. Kilpatrick at the time I did was for the purpose of persuading him to live up to his contract. We had no desire to overcome any arrangement which was existing previously to his taking on the Curtis agency, but we did insist that the contract should be lived up to; in other words, if Mr. Kilpatrick changed his source of supply, we considered it was a violation of his contract and would accordingly change him.

Q. You understood he was going to handle the "Pictorial" direct from the publishers?

A. He told me so.

Q. Were you also present when Mr. Nutter called Kilpatrick on the telephone and asked him if he was coming to Chicago, as you heard him testify on the stand today?

A. Yes, sir.

Q. Did you hear what Mr. Nutter said?

A. Mr. Nutter's talk to Mr. Kilpatrick was like

this—"Kill, are you coming to Chicago tomorrow or the next day"—I do not remember what the particular period was—"Are you coming to Chicago tomorrow or the next day?"

Q. You were aware that this kind of a meeting was being held in Chicago?

A. I surely was.

Q. And you thought that Kilpatrick might be coming?

A. Yes, sir.

Q. And you wanted to know if he was coming?

A. Yes, sir.

Q. Did you ask Mr. Nutter to telephone him?

A. I not only asked him but I told him to.

CROSS-EXAMINATION.

By MR. DALY:

Q. Did you know what the meeting was for?

A. Yes, sir.

Q. What was it for?

A. I knew what it was supposed to be called for, and I wanted to know what it was really called for.

Q. What did you find out?

A. It was called for the purpose presumably——

Q. Not presumably—I want to know what you know.

A. Well, I do not know what it was called for. I can only answer as I know it.

Q. You knew it was called, do you not?

A. Yes, sir.

Q. You know it went on?

A. Yes, sir.

Q. What went on at the meeting?

A. The purpose of the meeting—let me see. Mr. Mackinnon spoke at this meeting and told the assembled——

Q. Were you there and heard it?

A. No.

Q. As a matter of fact, you got a report of what happened at that meeting?

A. After the meeting was over.

Q. From Henry Solomon & Company at Cleveland?

A. He may have mentioned it among others.

Q. He made a report in writing to the Curtis Publishing Company?

A. Who did?

Q. Mr. Solomon.

A. I did not know Mr. Solomon made a report.

Q. You knew he was there?

A. Surely.

Q. Did you talk to him?

A. Yes, sir; and all the other folks there, too.

MR. DALY: We offer this report in evidence (exhibiting paper).

MR. MILBURN: I object to the report. I do not object on the ground it is not properly proven; I merely object to it as irrelevant and immaterial. It is a report on a meeting held in Chicago, made by Mr. Solomon, and sent to Mr. Douglas. I do not see how it is relevant to this issue in any way at all. My objection is not directed to any technical flaw in the proof.

MR. WELCH: It is a statement of what took place at a meeting called by Mr. Mackinnon, with which the Curtis Publishing Company had nothing whatsoever to do. There is no testimony that we put in in this case, save Mr. Holl stated he was present when Mr. Nutter asked this man if he was going to Chicago——

MR. DALY: There is nothing to show Mr. Mackinnon called this meeting in the first place, and the second thing was Mr. Milburn brought this question of this meeting out himself, and he de-

scribed at least the telephone conversation in regard to a man going to the meeting. Mr. Nutter stated Mr. Holl asked him to do it, and Mr. Holl stated he knew about the meeting and what the purpose of it was, and when we get that far into a meeting, we should be allowed to show, and have a right to show, what was done at this meeting on this matter.

MR. MILBURN: The sole question on which Mr. Holl was called was as to a question of veracity as to whether this man had been called to Chicago. The materiality of the meeting is in no way raised. Suppose we had testimony as to a series of meetings and as to what was said about "Pictorial Review" and the Curtis Publishing Company. It does not seem to be binding on the Curtis Publishing Company or relevant to any issue in this case.

EXAMINER MOORE: I reserve ruling until tomorrow.

MR. DALY: This is a letter written by H. Solomon, who testified in the case and who is a representative of Henry Solomon & Company, who is an agent—one of the so-called district agents—of the Curtis Publishing Company, and who was at this meeting, and this letter is his account of what happened at this meeting, written by him to Mr. M. E. Douglas of the Curtis Publishing Company.

MR. MILBURN: And I understand you reserve your ruling on the admissibility of that letter and will rule on it tomorrow.

EXAMINER MOORE: Yes.

MR. DALY: That is all.

EXAMINER MOORE: We will take a recess now until tomorrow morning at 10 o'clock sharp.

(Thereupon at 5.30 o'clock P. M. an adjournment was taken until tomorrow, Friday, May 24, 1918, at 10 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

The Federal Trade Commission
v.
Curtis Publishing Company.
} Docket No. 15.

Room 304, Federal Building, Cincinnati, Ohio.
Friday, May 24, 1918, 10 o'clock A. M.

The hearing was resumed at 10 o'clock A. M., pursuant to adjournment.

Before EXAMINER CHARLES S. MOORE.

Present: A. M. DALY, ESQ., and
L. A. SPIESS, ESQ., on behalf of the Commission, and
JOSEPH W. WELCH, ESQ., and
JOHN G. MILBURN, JR., ESQ., on behalf of the Curtis Publishing Company.

H. B. SMITH, was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Are you connected with the Curtis Publishing Company, Mr. Smith

A. I am.

Q. In what capacity?

A. Field supervisor.

Q. How long have you been connected with the company? How many years?

A. As a side line and part-time man about eight or nine years.

Q. Did you, at the request of the Curtis Publishing Company, make an investigation as to the situation at Canton, Illinois?

A. I did.

Q. Who is the district agent there?

A. George Louis Piper.

Q. He is a boy, is he not?

A. Yes, sir; a "Post" boy.

Q. And his father works in conjunction with him?

A. Yes, sir.

Q. What does he handle, do you know?

A. Curtis publications only.

Q. And no newspapers?

A. No, sir.

Q. Is there any other wholesaler at Canton—of magazines, I mean?

A. Frank W. White & Brother.

Q. What do they wholesale?

A. They wholesale the "Chicago Tribune," "Examiner," "American" and "Herald," and the "St. Louis Globe" and "Republican," "Peoria Star," and the "Journal"; the Hearst group, Warner group, "Pictorial," Crowell, "Collier's" and "Literary Digest."

Q. They are the big wholesalers?

A. Yes, sir.

Q. Were you in the office of Mr. Katze, the district agent for the Curtis Publishing Company, in Kansas City, on an occasion when Mr. Rankin, of the "Pictorial Review" came in there?

A. I was.

Q. Were you right in the office when he came in, so that you heard the conversation?

A. Yes, sir.

Q. Will you tell me what Mr. Rankin said to Mr. Katze?

A. I have my headquarters in Mr. Katze's building —I have desk room in his office—from February 10 to May 5, 1917, and I was sitting at my desk one morning and Mr. Katze was in the little office where he handles his magazine business and a gentleman came in and introduced himself as Mr. Rankin, of the "Pictorial Review," and solicited Mr. Katze to take the agency, and Katze told him that he did not know whether the Curtis Publishing Company would stand for that, and after some conversation Katze agreed to wire to get permission.

Q. Did Mr. Rankin say anything about any other agent taking it?

A. Mr. Rankin told him that Barron & Molaski, of St. Louis, had taken over the "Pictorial" agency, and he was going from there to Omaha to see Mr. Nelson.

Q. What did Mr. Katze say about wiring?

A. Mr. Katze said he would wire for permission, and if Mr. Rankin would come back at one o'clock, he would give him an answer.

Q. You were not there after that?

A. I was there after that, but I did not see Mr. Rankin again.

Q. You did hear Mr. Rankin tell Mr. Katze that Barron & Molaski, of St. Louis, had taken on the "Pictorial Review"?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. When was that conversation?

A. That was about, as near as I can judge, Mr. Daly, the 17th of February, 1917.

MR. DALY: That is all.

JOHN W. RHODES was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live?

A. Shelbyville, Indiana.

Q. Are you the Curtis district agent there?

A. No, sir; my boy is.

Q. How old is your boy?

A. Fifteen years.

Q. How long has he had the agency?

A. About two years.

Q. What is your business?

A. I am a school teacher—I have been with the Penn Mutual Life Insurance Company as its agent.

Q. Have you worked with your boy in conducting the agency and assisting him?

A. Yes, sir; I have corrected him and helped him.

Q. Was he connected with the Curtis Publishing Company in any way prior to taking the agency?

A. No, sir; he had never sold any papers at all.

Q. How many boys has he under him?

A. Ten.

Q. Do you know their parents?

A. Yes, sir.

Q. What kind of boys are they?

A. You mean their age or disposition?

Q. What is their disposition and their character—do they go to school?

A. There are some boys from some very poor families and some from families of lawyers and druggists—different vocations—but all nicely disposed boys.

Q. Does your boy handle any newspapers at all?

A. No, sir.

Q. Only the Curtis publications?

A. That is all.

Q. Have you found that the work your boy has done has been beneficial to him in a business way?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. In your community you don't draw the line at taking boys from what has been termed the best families?

A. No, sir.

Q. It depends on the boy, does it not?

A. Yes, sir.

Q. If the boy is worth while, you do not draw any line at what you call the best families?

A. My boy requires them to do certain things; he will not keep a boy that smokes cigarettes and so forth, and he has his boys altogether at times—I have been there when he has had them together, when the agent would talk to them, and he has asked them to be as neat as possible and courteous, and not smoke and swear.

Q. And they sell papers as well as magazines—these "Post" boys?

A. Yes, sir.

MR. DALY: That is all.

A. R. OTIS was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Otis, where do you live?

A. Kendleville, Indiana.

Q. And are you district agent there for the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you acted as district agent?

A. About six years.

Q. In what business other than that are you engaged?

A. I am in the druggist business.

Q. Do you wholesale any other magazines except the Curtis publications?

A. I do not.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. Did you ever wholesale any other magazines or newspapers?

A. I never have.

Q. Do you make your deliveries to the dealers and to boys?

A. Yes, sir.

Q. How many boys have you there?

A. Thirteen.

Q. How many dealers have you there?

A. Six dealers.

Q. Do these boys have regular customers, as a general rule?

A. Yes, sir.

Q. What is the age—how old and how young do they run?

A. They run, about eight years to fourteen years.

Q. Are most of them school boys?

A. All of them are school boys.

Q. And they are boys that you know the parents of, and know who they are?

A. Quite well; yes, sir.

Q. Do you work with those boys in connection with the sale of papers in instructing them in their duties?

A. Quite a good deal.

Q. And how to market the publications of the Curtis Publishing Company?

A. Yes, sir.

Q. How long do these boys stay with you, as a general rule?

A. Well, I have some boys that have been with me as long as four or five years. Some of them will stay, on an average, possibly two or three years.

Q. Do these boys receive certain pamphlets and booklets, and that sort of thing, from the Curtis Publishing Company in connection with the work they do?

A. Yes, sir.

Q. Do you also, as district agent, receive various publications from them—the "District Agent," and so forth?

A. Yes, sir.

Q. What is the proportion of sales made to boys and to dealers—do the boys or the dealers sell more of the "Posts" and "Journals"?

A. The boys sell the most; they sell possibly seventy-five to eighty per cent. of the total.

Q. Have any of these boys received any prizes or bonuses of any sort for their work?

A. Yes, sir; they have.

Q. Can you remember any particular sum that any boy has received since he has been working with you?

A. Do you mean in money or prizes?

Q. Money or prizes.

A. Either one?

Q. Yes.

A. They frequently receive prizes, but I do not recall just now of any money.

Q. But they have received prizes?

A. I think they have received money but I do not recall exactly.

Q. That is, money from the Curtis Publishing Company other than the amount they make on their sales?

A. Yes, sir.

Q. Have you received any money prizes as district agent?

A. Yes, sir.

Q. Can you recall any amount that you received?

A. I received a $150 prize about two years ago last August.

Q. And in addition to that, have you received bonuses and other payments for increased circulation?

A. Yes, sir.

Q. That is, in addition to the amounts you have received as commissions for handling the publications as agent?

A. Yes, sir.

Q. You are under the new contract, are you not?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. These prizes, of course, and moneys that you received were based upon the Curtis plan regarding such prizes?

A. Repeat that, please.

Q. I say that the prizes and moneys you draw from the Curtis Company were under their plan of giving them, and the basis of giving them was increased circulation, in all cases?

A. I think so.

MR. DALY: That is all.

F. F. HAMILTON was called as a witness on behalf of the respondents, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Hamilton?

A. Chattanooga, Tennessee.

Q. And you are the district agent of the Curtis Publishing Company there?

A. Yes, sir.

Q. How long have you been agent there?

A. Seven years last January.

Q. Are you engaged in any other business?

A. Nothing except raising a war garden at present.

MR. DALY: What is that?

THE WITNESS: Raising a war garden.

By MR. WELCH:

Q. You wholesale only the Curtis publications?

A. I wholesale only the Curtis publications.

Q. You wholesale no newspapers?

A. No, sir.

Q. You never did handle any of the newspapers or magazines?

A. No, sir.

Q. How do you make your deliveries in Chattanooga?

A. The boys draw from the office—I have an office there—and I deliver to the stands with a dray.

Q. How many retailers are there that you deliver to?

A. About thirty-five.

Q. How do you make that delivery?

A. How do I make it?

Q. Yes; do you have an auto truck?

A. No, sir; just a horse-drawn dray.

Q. You deliver to the boys that you have under you?

A. Yes, sir.

Q. How many boys have you got?

A. About forty, at the present time.

Q. How did you obtain those boys—did you have any assistance from the Curtis Publishing Company?

A. Yes, sir; quite a bit, at different times, by running ads in the papers.

Q. Has the traveling representative of the Curtis Publishing Company assisted you in any way with boys?

A. Yes, sir; I think so.

Q. Are these boys school boys, as a rule?

A. Pretty near all of them—very few but what are.

Q. Now, who is the youngest—how old is the youngest boy you have?

A. I suppose about eight years old.

Q. And they run from that age to about 14 or 15?

A. Up to about 18 years old—as long as they are in school.

Q. Do these boys stay with you a substantial length of time?

A. Well, yes, sir; the majority of them do. I have boys that I have had about four years. Of course, as they grow older they drop out, you know.

Q. That is, when they leave school, they stop the work of selling "Posts" and Journals"?

A. Yes; of course, also, people move away from the city and then I lose them.

Q. You report these boys to the Curtis Publishing Company every week?

A. Report their sales?

Q. Yes.

A. Yes, sir.

Q. You report the names of the boys and the amount of their sales?

A. Yes, sir.

Q. And these boys are in direct communication, at times, with the Curtis Publishing Company; are they not?

A. Yes, sir.

Q. You know that they receive certain printed matter?

A. Quite often they bring printed letters to me.

Q. That they received from the Curtis Publishing Company?

A. From the head office.

Q. Addressed directly to the boys?

A. Yes, sir.

Q. Do you know anything about their receiving bonuses or prizes of any sort?

A. Some of them receive bonuses now in the way of coupons—special bonuses and prizes in other ways.

Q. Have you received any bonuses or payments above the amount of your commissions that you receive out of your sales?

A. Yes, sir.

Q. Has that been a substantial amount or not?

A. Well, I received during about three months or three and a half months, about 120 odd dollars, in bonuses, from extra sales above a certain quota, in addition to my reguar commissions.

Q. And that is an important element in your relations with the Curtis Publishing Company, is it not?

A. I think so; yes, sir.

Q. Now, do the boys or the retailers sell more "Posts" and "Country Gentleman"?

A. Well, sir, about fifty-fifty. Of course, some weeks they vary.

Q. Do you have meetings with the boys at all?

A. Once in a while—not very often.

Q. You see them all every week, when they come to your place?

A. Yes, sir; I see them every week when they come to my place and know every boy personally.

Q. Do you know the parents of quite a few of them?

A. Not all of them, but pretty near every one.

Q. Have you recently been visited by any one from the "Pictorial Review"?

A. Well, I could not say that they were directly from the "Pictorial Review." They handled the "Pictorial Review" stuff.

Q. Who was it?

A. A gentleman by the name of Cohen.

Q. Has Cohen got a wholesale business?

A. He is manager of the World News Company.

Q. What did Cohen do?

A. He came to me and wanted a list of my boys, and I told him I could not give it to him.

Q. And he was, at that time, wholesaling "Pictorial Review"?

A. He was just beginning.

Q. Did he wholesale anything else?

A. He has quite a lot of them. I do not know that I could say all of them. There is Hearst publications, "All Story," "Argosy," "Collier's" and "Pictorial."

Q. Did you give him a list of your boys?

A. I did not, sir.

Q. Cohen is the big wholesaler there of magazines and newspapers?

A. Now, I would not say that the agency is in Cohen's name, but he and Kamp are at the head of the business, but they have it managed there by a different party.

Q. But that business is the big wholesale business of Chattanooga?

A. It is the only one in town that I know anything of at present.

Q. You are under the new contract?

A. Yes, sir; but I order under the old one. I order as I always did.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. This man was the general wholesaler in your town?

A. Was starting to be; yes, sir.

Q. And wanted to handle "Pictorial" through your organization?

A. He wanted a list of my boys.

Q. Did he say what paper he wanted to handle?

A. He didn't specify no paper.

Q. He wanted to use your boys?

A. In his business; yes, sir.

Q. Your boys, of course, are in touch with a good many customers out in the residential district, are they not?

A. Yes, sir; quite a few.

Q. And he could have reached these customers by using your boys?

A. I suppose so.

Q. And probably could have increased his magazine's sales thereby?

A. I reckon so.

Q. As a matter of fact he could?

A. I could not say. I do not know how the other magazines would take.

Q. Take a magazine like the "Pictorial Review,"

your boys could have sold it, or "Literary Digest," or "Every Week," or any of those papers?

A. They could have done it.

Q. How do you pay for your magazines?

A. I pay in advance and when I send in my requisition I send my check with it.

Q. You do not wait to collect from the dealers before sending it?

A. No, sir; but I collect when I deliver; I do no credit business whatever.

Q. When you send in the order——

A. I have the privilege of sending the requisition and paying afterwards, if I choose to do it.

Q. As a matter of fact, you send it right along with your requisition?

A. Yes, sir; I told you that.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. These customers that the boys deliver to in the city are customers that have been obtained by the boys themselves during the time they were a part of your organization?

A. Yes, sir; and right there, I have a few boys who, during school vacations, leave town and they always make arrangements with some other boys to deliver while they are out of town, because when they come back and enter school, those customers are to be turned back. That is the way it is handled.

Q. Mr. Daly asked you if those boys—the Curtis boys—who obtain customers for the Curtis publications could not have also taken "Pictorial Review" to those customers. You said they could. You mean physically they could, but what would be your objection to that?

A. My objection would be I did not give him a list of the names, so he could obtain them.

Q. What objection did you have—what objection would you have to "Pictorial Review" being taken by these boys to their customers?

A. Well, if I had a good boy, I would not want him to take all the other magazines, because it would interfere with mine.

Q. These boys are all school boys and their time is pretty much taken up with this Curtis work?

A. I think we have two or three what you might term street boys. The majority of them are high-class children. I have turned away several boys on account of their appearance. My wife waits on the boys when I am delivering the magazines, and I do not want every kind of a boy coming around when she is present.

Q. You know your contract provides that you are to make payments for the papers after you receive them and they are sold by you?

A. Yes, sir; that is right.

Q. But you pay in advance simply for your own convenience?

A. Yes, sir; it keeps the thing straighter for me to do that.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. You liked the old contract basis, did you not?

A. No, sir; I have no objections to the new contract as far as the contract goes, but I just prefer to pay as I have been doing.

Q. How much time does it take for your boys to distribute these magazines every week?

A. Well, my boys hardly ever sell after Thursday —very few of them.

Q. What part of the time does it take, while they are selling?

A. They commence to come to my office anywhere from four to seven. There is hardly any there after seven, because they get it then and sell up to school hours, and possibly some of them will double back in the evening and sell after school, until seven o'clock in the night. Possibly some of them sell later Thursday evening.

Q. And that occurs how many times in the week?

A. One day in the week.

MR. DALY: That is all.

MR. WELCH: That is all.

ISRAEL GOODMAN was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Goodman?

A. Louisville, Kentucky.

Q. You are the district agent for the Curtis Publishing Company at Louisville, Kentucky?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

Q. How long have you been the district agent there?

A. Three years.

Q. Before that time, did you sell any of the Curtis magazines?

A. Yes, sir; I sold them when I was with Deerings. Deerings had the Curtis agency then.

Q. You sold as a "Post" boy?

A. Yes, sir.

Q. And three years ago you became the district agent?

A. Yes, sir.

Q. Do you wholesale any other magazines than the Curtis magazines?

A. None other.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. Who is the other wholesaler at Louisville?

A. The Hevren News Company.

Q. That is a local concern, is it not?

A. Yes, sir.

Q. It is not a branch of the American News Company?

A. No, sir.

Q. Do you know who runs that concern?

A. Everett Hevren.

Q. What do they wholesale in the way of magazines and newspapers?

A. They wholesale the Hearst publications, Warner publications, "Jim Jam Jems," and "Motion Picture Classic" and "Motion Picture Magazine," and "Every Day Mechanics" and "Puck"—well, that is a Hearst publication—and one called "Business Philosophy"—quite a few of them.

Q. And newspapers also?

A. They are also agents for the "Cincinnati Inquirer" and the "Chicago Tribune."

Q. They are the big wholesalers there of magazines and newspapers?

A. Yes, sir.

Q. How long have they been in business?

A. Hevren has been in business about seven years.

Q. Has the American News Company also a branch there?

A. Yes, sir; called the Louisville News Company.

Q. How many retailers are there in Louisville?

A. Dealers?

Q. Retail dealers.

A. Oh, there is about 215, I suppose.

Q. Do you deliver to them?

A. Every one of them.

Q. How do you make your deliveries?

A. By truck—Ford machine.

Q. You also have boys selling the "Post" and "Country Gentleman" and "Ladies' Home Journal"?

A. Yes, sir.

Q. How many boys have you got at the present time?

A. One hundred and seventeen boys.

Q. When you took the agency, how many boys were turned over to you by the former district agent of the Curtis Publishing Company?

A. About seventy-three, but about sixty were actively selling at that time.

Q. You have, since that time, increased the number to 117?

A. Yes, sir.

Q. Now, have you had any co-operation from the Curtis Publishing Company in obtaining boys and assisting you in getting boys for this work?

A. Yes, sir; we had the fullest co-operation from them—all kinds of co-operation from them.

Q. Such as what?

A. Correspondence, advertisements, letters and prizes offered, et cetera.

Q. Do you know whether or not the Curtis Publishing Company personally corresponds with boys?

A. Every one of them.

Q. You have had boys come and bring letters?

A. Yes, sir; some boys which were perhaps not clear about them—they would bring them to me—pertaining to salesmanship and promotion work, et cetera.

Q. These boys that you get from time to time are mostly school boys, are they not?

A. Every one of them.

Q. And how old are they?

A. They average from about ten to fourteen years.

Q. Do they stay for a considerable length of time?

A. Yes, sir; they stay for—generally, after they once get started in the work, they hold on and continue to sell.

Q. After a boy becomes identified with your agency, do you report his name to the Curtis Publishing Company each week?

A As soon as the boy sells, on the next sales report, we put his name on it, and after that his name appears on the sale report every week, as long as he continues to sell.

Q. How about prizes that the boys have gotten for their work from the Curtis Publishing Company? Do you know of any such?

A. We had a local contest. We gave a bicycle away and ten other prizes—they were distributed among them as prizes for the boys. The boys generally received a dollar with sales under certain circumstances, and if they sold a certain number of copies, they got another dollar, which was put in the bank, starting bank accounts for them, and quite a number of them got those prizes.

Q. That is all in addition to what they make from selling?

A. That is all in addition to what they make from selling; yes, sir.

Q. Have they received, in addition to this correspondence from the Curtis Publishing Company, also various pamphlets and printed matter?

A. Such as "How to Sell One Hundred Copies a Week," and a little pamphlet on how to read, giving

them ideas as to how to get customers, and also the vocational training involved, et cetera.

Q. Have you received any bonuses or premiums in addition to the commissions you have earned on the sale of your magazines?

A. Yes, sir; I have received 20 odd dollars for starting new boys. Every new boy we start we receive a dollar; if he sells a certain number of copies, and we also receive prizes for window displays, contests, and also other premiums offered to district agents, like us.

Q. And that has amounted to a substantial sum in your business?

A. Yes, sir; in 1917 we earned $300.

Q. Over and above what you received for the agency?

A. Yes, sir.

Q. You receive from time to time various publications and pamphlets from the Curtis Publishing Company relating to your duties?

A. Right along.

Q. Is there a considerable amount of work connected with the handling of your agency by you?

A. It is what you make it. I do not think there is much work, if the agent does his work as he is expected to do it. He can get along mighty good.

Q. You were asked to wholesale "Pictorial Review," were you not?

A. Yes, sir.

Q. I think Mr. Mackinnon wrote you, did he not?

A. Yes, sir.

Q. What did you do about that?

A. Why, the first letter——

Q. Did you make a reply or not?

A. I did not reply, and in about eleven days after that, we received a telegram from Mr. Mackinnon of Chicago to be definitely advised whether we would

accept the agency or not. We did not reply to that either.

Q. At that time, the Hevren News Company was in business and doing a big business?

A. Yes, sir.

Q. Did you ever have any effort made by the Hevren News Company to get a list of your boys or the names of your boys?

A. Yes, sir.

Q. What was that?

A. The Hevren News Company sent one of their men around one Thursday at our place of business, and he stopped every boy that passed and wanted to get his address and name. One of the boys who did not want to give his name, said, "What is the idea of stopping me," and I, of course, looked out and saw that.

MR. DALY: What is the idea of this testimony with reference to the Hevren News Company? It has nothing whatsoever to do with this case—wholesalers running around after these boys, but he may go ahead.

By MR. WELCH:

Q. Were you ever asked to take on the Warner publications?

A. Warner?

Q. Yes.

A. Not until I left for Cincinnati. The Hevren News Company probably had more than they could handle and they asked us if we would not care to handle it, but we flatly turned it down, stating that we did not care for it.

Q. Do you know Mr. McMurray, of the "Pictorial Review"?

A. I know him very well.

Q. Did you have any talk with Mr. McMurray about wholesaling magazines?

A. Mr. McMurray always used to come into our store and see me whenever he was in Louisville.

Q. Did he see you recently?

A. Yes, sir; about a month ago.

Q. What did he say?

A. We began to talk about the hearings all over this country and he said that one of the Curtis witnesses, at one of the hearings, had given testimony that was very favorable to the "Pictorial Review."

Q. And he cited that instance?

A. Yes, sir.

Q. Did you ever have any visit from the Crowell Publishing Company people?

A. Yes, sir; once.

Q. Who was that—do you know?

A. One of the roadmen, he was trying to place "Every Week" in Louisville. He approached me and I explained the situation that I did not care to handle it, and he finally asked me if I had any relative or any brother working for anybody in the newspaper business, and I told him I had a brother working in the Louisville post office, and he suggested I place the agency in his name.

Q. In your brother's name?

A. And have our Curtis boys sell it, and by doing so, the agency not being in my name, they would not find it out.

CROSS-EXAMINATION.

By MR. DALY:

Q. When was it that Mr. McKinnon wrote you?

A. That was before the agency was placed in Louisville.

Q. When was that?

A. That was about the fall of 1916, I think.

Q. Do you not think it was in the spring of 1917 that Mr. McKinnon had those communications with you?

A. It has been quite a while ago—I do not remember exactly the date, but I do remember he afterwards wrote me a letter and sent a telegram.

Q. These men were trying to reach these customers of yours that you have out in the residential section and other sections to take on your boys for the purpose of delivering magazines?

A. I said the men were trying to get the names of the boys with the view to selling "Pictorial Review" to some of their Curtis customers.

Q. They did not want the names of the boys for any other use than to use them to sell their magazines —what did they want the names for?

A. To get the names and addresses and communicate with them with the idea of having them sell "Pictorial Review."

Q. And you have a great many customers that these boys deliver to—is that not true?

A. We have many boys who have customers. They are the customers of the boys. They obtain them by soliciting them.

Q. Now, the Crowell man, of course, wanted to do the same thing with the boys, too, did he not?

A. He wanted the Curtis boys to sell "Every Week."

Q. And thus reach the same customers that the wholesale dealer could not deliver to?

A. No; "Every Week" wanted to draw the benefit of the Curtis work.

Q. I know he wanted to get the benefit of the Curtis organization, but he was trying to reach these customers, was he not?

A. He was trying to have the boys sell "Every Week" to some of their "Post" customers.

Q. These boys' customers were customers of these boys and this wholesaler did not reach them. He does not deliver out in the residential section?

A. These boys do and they have obtained them by hard work. These customers belong to the boys. They obtain them by going around and soliciting among probably some of his friends and neighbors. They are the boys' customers all the time.

Q. The boys sell to a certain lot of people——

A. They are his customers.

Q. Well, you can call them what you please. They work up a certain trade?

A. Yes, sir.

Q. These wholesale dealers do not deliver to these customers generally?

A. These boys deliver to these customers.

Q. I am speaking of the wholesalers in general. Well, they do not have any organization like this?

A. Nothing of the kind; no, sir.

Q. Your boys have customers all around throughout the city that they deliver their "Saturday Evening Posts," "Ladies' Home Journal" and "The Country Gentleman" to?

A. Yes, sir; those are their customers.

Q. And, therefore, the other wholesaler cannot reach them except through these boys?

A. He has no organization like the Curtis boys and he cannot very well reach them; no.

Q. He delivers to the retailers only, does he not?

A. Yes, sir; he supplies the dealers with them.

Q. And you distribute to these same dealers, do you not?

A. To the dealers and to the boys both.

Q. Now, you have had at various times certain

publications to instruct you in your work—is not that true—from the Curtis Publishing Company? Do you not get certain publications from them to assist you in your work?

A. I certainly do.

Q. What are those publications?

A. Sometimes they have some splendid idea that comes to them and they pass it along to all their district agents.

Q. What are the names of those publications?

A. One is called "The News Dealer," a splendid publication of its kind, published and devoted exclusively to district agents.

Q. Well, confine yourself to that, because that is the first one I will speak of. What other publications of that kind do you get?

A. We get a book on how to sell and handle agencies right along.

Q. When did you get one last?

A. We get them every month.

Q. And you have gotten a great deal of useful information out of them?

A. Indeed I have; I read them thoroughly through.

Q. Tell me some of the information you got out of your last pamphlet—what was in "The News Dealer" last month?

A. The President of the country proclaimed a War Garden Day, and there was an article published in that pamphlet to the effect that we should go around and solicit "The Country Gentleman," and I had our boys and dealers call attention of a lot of customers that were not buying "Country Gentleman," telling them they could buy "The Country Gentleman," inasmuch as it had become a national topic, and "The Country Gentleman" was the proper paper to read in that connection.

Q. Did you follow that idea out?

A. Yes, sir.

Q. And did you increase sales?

A. Yes, sir.

Q. Did you get any other valuable ideas as to how to sell out of those articles—matters that you did not know before—you have been in this business quite a while?

A. Yes, sir.

Q. You are very experienced; you know how to sell "Posts" and magazines, and that was the only new idea you got out?

A. There was another article by Mr. Isaac Markson, who went around the country telling about his experiences on the battlefields. In one of his articles—he had an article in there, and he happened to lecture in Louisville. He was a former Louisville man and very popular and I had the boys announce that, and we sold many extra copies on account of that.

Q. All these prizes and bonuses that you have received were based upon increased circulation?

A. Yes, sir.

Q. And those dollars that were deposited in the bank by the Curtis Publishing Company were eventually earned by the boys; is not that true?

A. If they sold a certain amount fixed by them they got the amount.

Q. Are you under the new contract?

A. Yes, sir.

Q. How do you pay for your magazines now?

A. After we sell them.

Q. In all cases?

A. In every case.

Q. You do not run any accounts with your dealers?

A. In what way?

Q. Do you trust any of your dealers with magazines?

A. The dealers—we deliver the papers every week and collect for them monthly. I have always done that and find it to be the best way. The dealers are generally all ready for us when we come around.

Q. And you send a check to the Curtis Publishing Company every week?

A. We send a check, after we sell our papers.

Q. Well, now, you get the "Post" Thursday.

A. Yes, sir.

Q. Then you send them out to all these 295 dealers and 117 boys. Do the boys pay for their papers?

A. They pay me.

Q. Pay immediately upon delivery to them?

A. Immediately upon receiving them.

Q. And the dealers do not?

A. The hotels standing around in the heart of the city, where it is easy to collect, I collect the next day, but those in the suburbs, we cannot get around very often, every week, and we collect monthly.

Q. But you send in your check at the end of the week for the papers received that week?

A. Yes, sir.

Q. How long have you been there as agent?

A. Three years.

Q. Who handled it before?

A. I handled them before breaking off from Mr. Deering. He was an old gentleman and I handled the whole agency for him.

Q. What else do you handle?

A. A retail book and stationery store in Louisville.

Q. Who had the agency before yourself, in your town?

A. A boy named Davis. He was a roadman, I believe, but he gave it up and handled an agency.

Q. How many "Posts" do you handle?

A. Our order is 4700 per week.

Q. How many do you sell?

A. On an average we have around 300 returns on the "Post."

Q. Your net sale about 4500?

A. About 4500.

Q. How many "Journals" do you handle?

A. Twenty-three hundred.

Q. How many "Country Gentleman"?

A. Seven hundred and fifty.

Q. About half of them were handled by the boys —I do not remember what testimony you gave on that —how many would be handled by the boys?

A. What ones?

Q. All of them.

A. On an average 60 per cent. by the boys, and 40 per cent. by the dealers.

Q. On the "Post"?

A. Yes, sir.

Q. And "Ladies' Home Journals," about the same?

A. Yes, sir.

Q. And that would apply to "The Country Gentleman," too?

A. Yes, sir; the same thing.

Q. How long does it take these boys to deliver their share of these?

A. How long it takes to deliver to their customers?

Q. Yes—how long are they employed during the week?

A. Most of the boys are school boys and come to

our store about 2 o'clock, and they get their papers and go and deliver them, and, I suppose they get through in half an hour or an hour.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You said these boys in answer to one of Mr. Daly's questions about handling other magazines from other publishers—that these boys obtain the customers themselves?

A. Yes; they obtain them themselves, and they obtain them with the help of the Curtis Publishing Company, by the promotive literature they get right along.

Q. These boys did not obtain their customers for the benefit of other publishers—other wholesalers, to sell magazines, too?

A. No, sir; their idea was to sell nothing but Curtis publications.

Q. You said the dealers paid you monthly—a good many paid you monthly?

A. Yes, sir.

Q. That arrangement is at your own risk?

A. Yes, sir; it is satisfactory to all.

MR. DALY: What arrangement is that?

THE WITNESS: About paying the way they do now.

By MR. WELCH:

Q. The Curtis Publishing Company has nothing to do with your arrangements with the dealers?

A. No, sir; they never say anything about how we shall collect.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. They do not object to paying every week?

A. No, sir; it is our arrangement to pay that way and it is satisfactory to us, and we thought we would do it that way.

Q. What were you selling when you were selling "Posts"?

A. We did not have as many boys like we have now. We filled up, since I sold "Posts."

Q. How many "Posts" did you sell?

A. I used to sell ninety.

Q. What else?

A. I do not believe "The Country Gentleman" was handled by the Curtis Publishing Company then.

Q. What else did you sell?

A. "The Ladies' Home Journal"—about forty a month and the Louisville papers.

Q. Any newspapers?

A. Yes, sir; I sold them on the street.

Q. And sold these magazines as well?

A. Yes, sir.

MR. DALY: That is all.

MR. WELCH: That is all.

HORACE F. CAMPBELL was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Campbell?

A. Frankfort, Indiana.

Q. Are you the district agent for the Curtis Publishing Company?

A. The firm with which I am connected, as a partner—I have had the management of it for a good many years—we handle the district agency.

Q. For how many years?

A. Fifteen years, probably, we have been in business.

Q. Do you wholesale any other magazines except the Curtis Publishing Company's publications?

A. No, sir.

Q. You wholesale no other magazines?

A. No, sir.

Q. And no newspapers?

A. No, sir.

Q. Who wholesales the other magazines in Frankfort, if anybody?

A. I do not know of anybody else.

Q. In other words, as far as you know, the Curtis Publishing Company is the only company that maintains a wholesaler of magazines in Frankfort?

A. Yes, sir.

Q. How many boys do you have?

A. About twenty now.

Q. Do you supply the retail dealers?

A. No, sir.

Q. You handle the magazines only through boys?

A. Yes, sir; I have one adult salesman, but he sells like the boys, a crippled man, who sells on a chair.

Q. Have you received assistance from the Curtis Publishing Company in obtaining and maintaining this force of boys?

A. Yes, sir.

Q. Are there any newspaper wholesalers at Frankfort?

A. Not to my knowledge, except publishers of local papers.

Q. Were you ever asked to handle the "Pictorial Review"?

A. Yes, sir.

Q. When was that?

A. I cannot give the date. We had a letter from the publishers at one time offering wholesale rates and asking us to deliver to other dealers.

Q. You do not wholesale any magazines except the Curtis magazines, and you did not take them on?

A. No, sir; we had possibly one bunch of magazines billed at the wholesale price, but my recollection is indistinct about that; at least, we did not take it up.

Q. Were you ever asked to take the Crowell publications at wholesale?

A. Yes, sir; verbally, not very long ago, and to handle, as I recollect, through the news company, to get supplies through the news company.

Q. You had only boys?

A. Yes, sir.

Q. You did not take the Crowell Company's publications?

A. I did not take them; no, sir.

Q. Do you know whether there is a wholesale newspaper dealer in Frankfort named David Zlocksmith?

A. He handles the daily papers. I do not know that he wholesales, but if he does, it is probably the Indianapolis and possibly the Chicago papers.

Q. Is there a man named Alonzo Keller?

A. Yes, sir.

Q. He is a wholesaler of newspapers?

A. I believe he wholesales; he handles them from the publishers through boys.

Q. Those are the only two you know of?

A. Yes, sir.

Q. Are you under the new contract?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Mr. Campbell, can you say when it was that you had this matter up about the "Pictorial Review"?

A. No, sir; I could not. I simply recollect I had it up but I do not know the date.

Q. You corresponded with the Pictorial Review Company about it, did you not?

A. Yes, sir; one or two letters.

Q. Will you look at this letter dated April 16, 1917, that you wrote the "Pictorial Review"? I ask you if that is your letter (handing letter to witness).

A. Yes, sir; I wrote that letter.

MR. WELCH: There is no objection to that.

MR. DALY: I offer that in evidence.

(The letter referred to was thereupon received in evidence and marked by the stenographer, "Commission's Exhibit, No. 213," and the same is as follows:)

COMMISSION'S EXHIBIT, No. 213.

"CAMPBELL-AUGHE COMPANY.
Successors to
Given & Campbell Company.
Frankfort, Indiana, Apr. 16th, 1917.

The Pictorial Review Company.

Sirs:

Replying to yours of 13th, we did misread your former letter regarding price you charge us viz. 9¾c, which is entirely satisfactory.

We mislaid your letter in some way and got this price from a printed order blank which said 11c. We furnished the Hertz Dry Goods Company with 12 Pict. Review for May at 11c ea. This arrangement will be perfectly satisfactory to us but our contract with the Curtis Publishing Com-

pany does not allow us to wholesale to other newsstands.

This, however, will make very little difference—as there is only one other stand in town that does any business to amount to anything and it is a railroad stand—drawing its supplies from Indianapolis headquarters.

We sent you an order on Saturday for 60 Pic. Rev. for June, and enclose check for Two dollars and forty-four cents ($2.44) to pay bill of Mar. 30th.

Hoping this arrangement will be satisfactory, we are,

Yours truly,

CAMPBELL-AUGHE COMPANY."

MR. DALY: That is all.

CHARLES FRANKLIN JOHNSON was called as a witness on behalf of the Respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Johnson?

A. Middletown, Ohio.

Q. How old are you?

A. Eighteen.

Q. Do you go to school now?

A. Yes, sir.

Q. Are you the Curtis district agent at Middletown?

A. Yes, sir.

Q. Do you wholesale any other magazines than Curtis magazines?

A. No, sir.

Q. Do you retail any other magazines?

A. No, sir.

Q. How long have you been acting as district agent?

A. Two years and two months.

Q. How do you deliver the magazines in Middletown?

A. You mean wholesale or retail?

Q. Wholesale.

A. Well——

Q. Do you take them around yourself or do you have boys help you?

A. I have boys.

Q. How many boys have you?

A. Twenty-five.

Q. Are they boys that you obtained in connection with the Curtis Publishing Company and with their assistance?

A. Yes, sir.

Q. How long do these boys stay with you, as a rule?

A. I have got some boys who have been with the company over six years, but they average a couple of years so far.

Q. And some of the boys were turned over to you when you took the agency?

A. Yes, sir.

Q. Are these boys that you have boys that are going to school?

A. Yes, sir.

Q. All of them?

A. Yes, sir.

Q. Do you deliver to any dealers in Middletown?

A. Yes, sir.

Q. How do you make your deliveries—by carrying the magazines around yourself?

A. Yes, sir; with an assistant that I have.

Q. How many boys did you say you have?

A. Twenty-five.

Q. Out of the twenty-five boys, how many league members have you?

A. Eight.

Q. How many master salesmen?

A. I do not know.

Q. And have you any expert salesmen among them?

A. One.

Q. Have these boys received prizes from the Curtis Publishing Company for their work?

A. Yes, sir.

Q. And have they received also premiums on increased sales from time to time?

A. Yes, sir.

Q. That is in addition to what they make on the sale of the publications, is it?

A. Yes, sir.

Q. Have you received prizes and bonuses in addition to your commissions?

A. Yes, sir.

Q. How much have you received, just roughly, for that work?

A. One hundred and eighty-two dollars and eighty cents.

Q. That is over and above the amount of commissions you received on the sale of your magazines?

A. Yes, sir.

Q. Have you ever received any money for coaching boys?

A. Yes, sir.

Q. How much?

A. Twenty-nine dollars and seventy-five cents.

Q. Have you received that from the Curtis Pub-

lishing Company for your work in coaching and instructing the boys in their duties—is that the fact?

A. Yes, sir.

Q. How many "Posts" do you sell, and how many "Journals" and how many "Country Gentleman"?

A. I average about 700 "Posts" and about 700 "Ladies' Home Journal" and about 200 "Country Gentleman"—about 180 to 200 "Country Gentleman."

Q. What proportion of the 700 "Posts" do the boys sell?

A. About 75 to 80 per cent.

Q. How about "The Ladies' Home Journal" and "The Country Gentleman"?

A. "The Ladies' Home Journal" would be about 70 per cent. and "The Country Gentleman" about 80 per cent.

Q. And the other 20 or 25 per cent. is what is sold by the dealers?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. You got some money for coaching boys—will you tell exactly the details of that transaction?

A. Yes, sir; we have a Ten Club in Middletown of boys that go there and have meetings and are instructed with reference to the next day's papers, how to sell them, and what are the best things in those papers, and how to approach different people about the papers, and besides I would tell them, I had boys who had reached great efficiency in the work, who would tell their experiences, and some things about the papers, too, and besides this I read circular letters to the boys telling them what the big things in the magazines were, besides what the Curtis Publishing Company sends them to train them in order to sell them.

Q. You got that $20 for doing that kind of work?

A. About $30.

Q. As a matter of fact, you got it under the Curtis plan, which is that when the boys increase their number of copies to a certain point, then you get something for it?

A. Yes, sir.

Q. That is actually what you got it for, is it not?

A. For training the boys to reach that amount.

Q. The boys had to get a certain amount before you got anything—you would not have gotten anything if the boys had not increased their circulation?

A. No, sir.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. These boys would not have increased their circulation if they had not received certain instruction from you and the Curtis Publishing Company?

A. No; they would not.

MR. WELCH: That is all.

CARL H. REISTER was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. What is your name?

A. Carl H. Reister.

Q. Where do you live?

A. New Albany, Indiana.

Q. Are you the district agent of the Curtis Publishing Company?

A. Yes, sir.

Q. How long have you been the agent?

A. Three years.

Q. Are you a schoolboy?

A. Yes, sir.

Q. You go to high school now?

A. Yes, sir.

Q. Do you wholesale any other magazines or any newspapers except the Curtis publications?

A. No, sir.

Q. Is there any wholesaler of magazines other than yourself at New Albany?

A. Yes, sir.

Q. Who is that?

A. Mr. Irving Glass.

Q. Do you know what he wholesales?

A. "Pictorial Review," "Every Week," and most of the magazines besides the Curtis magazines. He wholesales them all.

Q. He also wholesales certain newspapers — the Cincinnati, Louisville and Indianapolis newspapers?

A. Yes, sir.

Q. How do you make your deliveries in New Albany of the Curtis publications?

A. Myself, on a bicycle.

Q. Do you also distribute to boys?

A. Yes, sir.

Q. How many boys have you?

A. Thirty boys.

Q. Are these boys in any organization that you have in charge there—do they constitute any organization that you have?

A. At present they are not, but we did have a Ten Club.

Q. How did you obtain the boys—through the assistance of the Curtis Publishing Company?

A. Yes, sir; every month they would allow us so much for this Ten Club.

Q. That attracted the boys to come?

A. Yes, sir.

Q. Are these boys schoolboys that you have?

A. Yes, sir.

Q. And have they regular customers that they themselves have found for the Curtis papers?

A. Yes, sir.

Q. Do the boys sell more copies of the "Post," "Journal" and "Country Gentleman" than the retailers do?

A. Yes, sir.

Q. What is the number of sales of the boys at the present time?

A. The total?

Q. Yes, on the "Posts"—the total sales of the "Posts."

A. Three hundred and twenty-five at present.

Q. And how about the "Journal"

A. One hundred and sixty.

Q. And the other one—the "Country Gentleman"?

A. One hundred "Country Gentleman."

Q. Have these boys received premiums and prizes or bonuses, payments in addition to their profits on the sale of the magazines?

A. Yes, sir.

Q. Have you received, or earned, anything in the way of prizes from the Curtis Publishing Company?

A. Yes, sir.

Q. What have you received in prizes and bonuses?

A. About $400 in prizes, and I judge about $100 in bonuses.

Q. During the three or four years you have been agent?

A. Yes, sir; that is right.

Q. And that has been a very material consideration to you, in connection with this agency?

A. Yes, sir.

Q. You received this amount over and above the amount you received as commissions for the sale of your papers?

A. Yes, sir.

Q. How old are the boys that you have under you?

A. They will run from ten to sixteen years.

Q. And they handle the Curtis magazines exclusively do they?

A. Yes, sir; with the exception of one who sells newspapers.

Q. And that is one out of thirty?

A. One out of thirty sells newspapers.

Q. And the other twenty-nine handle only Curtis publications?

A. Yes, sir.

Q. Were you asked to take the agency for the wholesale distribution of the Crowell publications?

A. Through a letter; yes, sir.

Q. You did not take it?

A. No, sir; we did not pay any attention to it.

CROSS-EXAMINATION.

By MR. DALY:

Q. When was it you were asked to take on the Crowell publications—recently, or some time back?

A. Some time back.

Q. How far back?

A. I should think in 1917—the first part of 1917.

Q. And you think that letter asked you to handle their papers?

A. Yes, sir.

Q. In getting boys, do not these boys themselves bring, in turn, a great many boys in to you?

A. Yes, sir; one boy will bring another boy.

Q. As a matter of fact, that is the great way you

get your boys, through one boy bringing in another boy?

A. Yes, sir; and we advertise.

Q. These boys bring in a great many new boys?

A. Not the majority.

Q. I did not ask about the majority, but quite a number?

A. Yes, sir.

Q. How often have they advertised for boys in your town, this last year?

A. Once this last year.

Q. And you got new boys through this advertisement?

A. Yes, sir.

Q. How many?

A. Sixteen, the last time.

Q. Through the advertising alone?

A. Yes, sir.

Q. How many did you have when you began to advertise?

A. When we began advertising we had about twenty.

Q. How long have you had those twenty?

A. Those have been steady boys—ever since I began the agency.

Q. Did you have more than twenty prior to that time during any period?

A. Yes, sir; I had them and they quit and new ones taken their places.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. When one boy gets another boy, he also has some inducement offered him from the Curtis Publishing Company?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. What inducement is that?

A. Twenty-five brown vouchers.

Q. And what happens then?

A. He gets a prize after he gets so many of them.

MR. DALY: That is all.

FRANK M. HECK was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Hamilton, Ohio.

Q. And are you the Curtis agent in Hamilton?

A. Yes, sir.

Q. How long have you been the agent there?

A. About four years and a half.

Q. What magazines do you handle wholesale?

A. Wholesale?

Q. Yes.

A. The Curtis Publishing Company's publications —"The Saturday Evening Post," "The Country Gentleman" and "The Ladies' Home Journal."

Q. Those are the only ones you handle wholesale?

A. Yes, sir.

Q. What is your other business?

A. News and stationery, and also have a branch post office and interurban ticket office.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. Do you deliver these magazines to the dealers?

A. Yes, sir.

Q. How many boys have you?

A. About thirty-eight or forty.

Q. Do they deliver the "Journal" and "The Country Gentleman" to their regular customers?

A. Yes, sir.

Q. And you supervise their efforts?

A. Yes, sir.

Q. Has the Curtis Publishing Company co-operated with you in that supervision?

A. Very much; yes, sir.

Q. And do these boys get certain premiums or prizes—do they get some compensation in addition to what they make on the papers?

A. Yes, sir.

Q. And the same thing is true of yourself as district agent?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. What did you do before you took on this district agency?

A. I had a store.

Q. What kind of a store?

A. News and stationery.

Q. And what publications did you handle?

A. The general line of magazines.

Q. Did you handle "Pictorial Review"?

A. Yes, sir.

Q. What became of that matter?

A. Why we—what do you mean?

Q. Do you still handle it?

A. Yes, sir; we do sell "Pictorial Review."

Q. Do you handle it along with the Curtis publications?

A. We retail that.

Q. You formerly wholesaled it, did you not?

A. No, sir; we never did wholesale "Pictorial Review."

Q. And has your company ever objected to you—you were a pattern agent there, too?

A. Yes, sir.

Q. Do you still handle the patterns?

A. No, sir.

Q. Did the Curtis Publishing Company ever object to your handling the "Pictorial Review" in a wholesale way?

A. I did not ask them.

Q. Or in any way?

A. I did not ask them.

Q. Did they not ever ask you to wholesale it——

A. The "Pictorial Review" solicited us.

Q. And you would not handle it?

A. No, sir.

Q. Why?

A. Personal reasons.

Q. What do you mean by that?

A. Well, I do not like the "Pictorial Review's" business policy.

Q. What policy was it you did not like?

A. They were unfair to us.

Q. In what respect?

A. Breach of contract.

Q. How did they break their contract?

A. They took the pattern agency away from us before the contract expired.

Q. Is that all?

A. They were unfair in the premium proposition, too.

Q. At the time of the flood up there, how were they unfair to you?

A. They wanted to be, but we did not permit them.

Q. They fixed you up, when you lost everything?

A. We made them.

Q. What proceedings did you take to force them?

A. They endeavored to go through court proceedings, but no attorney would take it up for them.

Q. No attorney would proceed against you?

A. No, sir.

Q. You are sure about that?

A. Yes, sir.

Q. As a matter of fact, you have trouble with them now?

A. The question is still open.

Q. There has been no actual litigation between you?

A. No, sir.

Q. Is the agency in your name or in the name of your wife?

A. Which?

Q. Your business?

A. My name.

Q. Is the Curtis agency in your name?

A. Yes, sir.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You had some sort of trouble over the pattern business with the "Pictorial" people and did not want to handle their papers at wholesale?

A. Yes, sir; but we are still retailing them.

Q. Mr. McMurray asked your wife——

A. Yes, sir; I did not meet Mr. McMurray myself.

Q. Who is the big magazine wholesaler there?

A. Bruck News Company.

Q. Were they in business there when Mr. McMurray asked your wife to handle the "Pictorial Review"?

A. Yes, sir.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How did you start in the magazine business? What magazines did you handle first?

A. I have been in the business for about twenty-eight or thirty years.

Q. What have you handled during that time?

A. Pretty nearly every magazine that is published.

Q. What were you handling when you took on the "Pictorial Review"?

A. The same line.

Q. How many magazines——

A. Possibly——

Q. What magazines?

A. I could not enumerate them—possibly seventy-five or one hundred, as a retail proposition.

Q. Who was the other wholesaler when you began to handle "Pictorial Review" in your town?

A. Wholesale or retail.

Q. Either way?

A. The Bruck News Company; he is the only wholesaler.

Q. Was he there when you first began to sell the "Pictorial Review"?

A. Yes, sir.

Q. Who are they?

A. Why, a man by the name of Edward Bruck—he has a place near the depot.

Q. What does he wholesale?

A. The Hearst publications and——

Q. Does he wholesale them now?

A. Yes, sir.

Q. You are sure of that?

A. Pretty positive.

Q. As a matter of fact, does not he handle newspapers—just handle newspapers?

A. No, sir.

Q. Mr. Korb saw your wife—do you know Mr. Korb when you see him?

A. No; I do not know the party at all.

Q. You did not see him?

A. No, sir; I did not see him at all.

Q. As a matter of fact, did not this other wholesaler handle only newspapers when the "Pictorial Review" people saw your wife?

A. No, sir; he handled other things; he had the Hearst publications.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. MILBURN:

Q. You used the words "handled 'Pictorial Review.'" Have you ever wholesaled the "Pictorial Review"?

A. No, sir.

Q. When you sold all these eighty or more magazines, you meant you retailed them?

A. Retailed only; I never wholesaled any magazines with the exception of the Hearst publications and the Curtis publications.

Q. You have wholesaled the Hearst publications and also the Curtis publications?

A. Yes, sir.

Q. Did you begin the magazine business with the Curtis publications?

A. Yes, sir; they were the first.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. When did you give up Hearst's?

A. Oh, possibly about a year and a half ago.

Q. Then, when was it that this "Pictorial" man was around to see your wife?

A. Possibly about a year and a quarter—about twelve or fifteen months ago.

CARL S. SNOOK was called as a witness on behalf of the respondent, and, being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Lima.

Q. Are you the Curtis agent there?

A. Yes, sir.

Q. How long have you been the Curtis agent there?

A. Six years.

Q. Do you handle any other magazines at wholesale?

A. None at wholesale.

Q. Have you ever wholesaled any other magazines?

A. No, sir.

Q. You began the business with the Curtis publications?

A. Yes, sir.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. How many boys have you?

A. Forty.

Q. Do you supervise their activities in the sale of papers?

A. Not so much.

Q. They come and get papers from you?

A. I have a brother who takes care of those matters.

Q. And he trains them and instructs them?

A. Yes, sir.

Q. Has the Curtis Publishing Company co-operated with you in training them?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. You do not do much in the way of training boys?

A. I have little talks with them, but I do not wait on them, in getting out the copies.

Q. You do not spend much time on them?

A. No, sir.

Q. Are you anxious to get rid of your agency?

A. Not very.

Q. Have you ever tried to sell it?

A. Yes, sir.

Q. Does it pay much?

A. Yes, sir; very good. At the time I wanted to get rid of it I intended to get into another line of business.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. You say you do not do any work with the boys?

A. I do some work with them; when he asked that I understood he asked if I dealt out the copies to the boys. My brother does the most of that work.

RE-CROSS-EXAMINATION.

By MR. DALY:

Q. How many copies do you handle of the "Post"?

A. One thousand.

Q. How many of "The Ladies' Home Journal"?

A. Five hundred and fifty.

Q. And how many "Country Gentleman"?

A. One hundred and twenty-five.

B. F. LANE was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live, Mr. Lane?

A. Jacksonville, Illinois.

Q. Are you the Curtis district agent in Jacksonville?

A. I am.

Q. How long have you been agent there?

A. About two years.

Q. What magazines do you wholesale?

A. Curtis publications and Hearst publications.

Q. What magazines did you begin the wholesale business with?

A. The Curtis.

Q. And then you took on the Hearst magazines?

A. Yes, sir.

Q. You took the Hearst magazines first and the Curtis afterwards?

A. Yes, sir.

Q. Then, the first answer you gave was not good?

A. No, sir.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. How many boys have you?

A. Between twenty and twenty-five. .

Q. What do they carry?

A. They carry the Curtis publications.

Q. Curtis publications only?

A. Yes, sir.

Q. Have they their own customers to whom they deliver and sell these papers?

A. Yes, sir.

Q. And you assume a sort of general supervision over them while they work?

A. Yes, sir.

Q. And do you give them any helpful advice or instructions?

A. Yes, sir.

Q. And has the Curtis Publishing Company co-operated with you in your work with the boys?

A. Yes, sir.

Q. Have you had any talk with the Crowell people about taking on their magazines?

A. I have.

Q. What was that?

A. Their agent called on me and wished me to take their agency.

Q. What did he say about it?

A. He said that he tried, as he visited around different places—he generally handed up the Curtis agents.

Q. Did he say the Curtis Publishing Company consented to any of their agents taking it on?

A. He showed me a list of Curtis agents who had taken it on that he had visited in weeks past, to prove that the agents, as a rule, were taking his magazines on without question.

Q. Did he say the Curtis agents were giving up the Curtis publications in favor of the Crowell publications?

A. He said where all these agents of the Curtis Publishing Company stood pat, the Curtis people came across and said "go ahead." That was the tenor of his remarks.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. Who was the other wholesaler at that time?

A. There are two, one Carl Richards, and the other a man named Joe Estaque.

Q. Do they handle magazines?

A. Mr. Estaque handles newspapers only.

Q. What does Richards handle?

A. The "Pictorial."

Q. Outside of that, you are the only wholesaler of magazines there, are you not?

A. Yes, sir.

Q. How many "Posts" do you draw?

A. About 330 or 350.

Q. How many "Ladies' Home Journals"?

A. About 160 this month.

Q. You have twenty to twenty-five boys?

A. Yes, sir.

Q. How many dealers do you serve?

A. I have about ten or twelve.

Q. Ten or twelve?

A. Yes, sir.

MR. SPIESS: That is all.

WALTER H. NORRIS was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Mr. Norris, where do you live?

A. Portsmouth, Ohio.

Q. What is your business there?

A. Grocery business.

Q. And in addition to that, do you wholesale the Curtis magazines?

A. Yes, sir.

Q. How long have you been the Curtis agent in Portsmouth?

A. Five years, this coming fall.

Q. Do you wholesale any other magazines at all?

A. No, sir.

Q. Do you wholesale any newspapers?

A. No, sir.

Q. Who was the big magazine wholesaler in Portsmouth?

A. Gableman.

Q. How many boys have you?

A. About twenty-five.

Q. Do they sell the Curtis publications only?

A. Well, there is one of them that I think sells other publications; that is, he gets them from the other dealers and sells them—the only one that I know of.

Q. And the other twenty-four have customers for Curtis magazines and sell those magazines only to their customers—is that correct?

A. Yes, sir.

Q. And has the Curtis Publishing Company cooperated with you in getting these boys and maintaining them as an efficient force?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How many "Posts" do you draw?

A. Five hundred and seventy-five.

Q. How many "Journals"?

A. Three hundred and fifty.

Q. How many newsdealers do you serve?

A. Seven or eight.

Q. Do these boys of yours ever attempt to sell any other magazines?

A. How do you mean—get them from other dealers?

Q. Yes.

A. There is only one I know of that does it regularly.

Q. Do you know why the others do not do it?

A. There is no reason for it. The young fellow who does it is afflicted and cannot do anything scarcely, and he does not go to school, and he does not work at anything. He does very well selling papers.

Q. You permit him to do that?

A. Yes, sir.

Q. Do you permit any other boys—would you permit any other boys if they wanted to do it?

A. I have no right to stop them.

Q. You have no right to stop boys selling other magazines?

A. No, sir; not according to my contract.

By Mr. Milburn:

Q. You would not want him to carry the "Collier's Weekly" along with his other magazines to his Curtis customers?

A. No, sir.

Q. But other than that, you have no more jurisdiction over him than I have?

A. No, sir.

Mr. Milburn: That is all.

CLYDE ALVIS was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Where do you live, Mr. Alvis?

A. Akron, Ohio.

Q. Are you the district agent for the Curtis publications at Akron?

A. Yes, sir.

Q. How long have you acted as such agent?

A. Since November, 1911.

Q. You are a retailer and wholesaler in magazines at the present time?

A. Yes, sir.

Q. What do you handle other than the Curtis magazines, wholesale?

A. Wholesale?

Q. Yes.

A. The Munsey magazines, "Motion Picture Magazine," "Literary Digest," "Collier's," "Pearson's," "The Etude," and maybe others that I do not recall.

Q. Do you wholesale any Chicago newspapers?

A. No, sir.

Q. What was the first magazine you handled wholesale?

A. "The Saturday Evening Post" and "The Ladies' Home Journal."

Q. And you had the Curtis publications before you took on any of these others that you have mentioned?

A. Yes, sir.

Q. And from time to time you took on the wholesaling of these other magazines?

A. Yes, sir.

Q. What other wholesalers are there in Akron – magazine wholesalers?

A. The Summit News Company.

Q. What do they wholesale at present?

A. Magazines?

Q. Yes.

A. The Hearst publications, Warner publications, and "Pictorial Review."

Q. What newspapers do they wholesale?

A. The Chicago and Cleveland newspapers.

Q. Is there also a branch of the American News Company there?

A. Yes, sir; there is.

Q. How do you distribute the magazines for the Curtis Publishing Company?

A. We have two trucks which we use—light, one-ton trucks.

Q. You also sell to boys?

A. Yes, sir.

Q. How many boys have you?

A. About sixty-three or sixty-five.

Q. Do you know the parents of these boys in many instances?

A. A great many of them.

Q. Are they school boys, most of them?

A. Practically all of them.

Q. Have you been assisted by the Curtis Publishing Company in obtaining boys and in keeping up this organization?

A. Yes, sir; by advertisements in the local papers and by their roadman.

Q. And you have, from time to time, instructed these boys and shown them how to handle Curtis magazines?

A. Yes, sir.

Q. Have they their regular customers?

A. Yes, sir.

Q. How do the boys get their magazines from you?

A. Most of the boys come in and some we deliver to the boys.

Q. Do any of the parents of these boys ever come to the store?

A. Yes, sir; quite a few of them; some come along with their children.

Q. Have the parents ever come in to get the magazines for their boys?

A. Yes, sir.

Q. And in that way you have kept in touch with the parents?

A. Yes, sir.

Q. Do you know whether these boys received from the Curtis Publishing Company any literature?

A. Yes, sir; they have.

Q. Pamphlets and little booklets, et cetera?

A. Yes, sir.

Q. Do you know whether they have had any direct correspondence with the Curtis Publishing Company?

A. Some of them do; yes, sir.

Q. They have told you about it and have shown it to you?

A. Yes, sir.

Q. Do you know whether any of them have gotten prizes and bonus payments?

A. Yes, sir; a great many of them have gotten cash prizes and prizes with vouchers also.

Q. Have you received any bonus payments or prizes for your work in addition to the amounts received as commissions?

A. Yes, sir; I received at one time $300 and smaller amounts at different times.

Q. In February, 1917, you had a conversation with a representative of the "Pictorial Review"?

A. Yes, sir.

Q. And you gave an order for some of the "Pictorial Reviews"?

A. Yes, sir.

Q. And sent a check?

A. I gave him the check.

Q. And communicated with the Curtis Publishing Company and found they would not give their sanction—is that correct?

A. Yes, sir.

Q. And you received your check back?

A. Yes, sir.

Q. That was your only experience with the "Pictorial Review" in this matter?

A. Yes, sir.

Q. At that time, was the Summit News Company in business?

A. Yes, sir.

Q. Do you know whether the Summit News Company took over the wholesaling of the "Pictorial Review"?

A. They did.

Q. Do you know what issue they started with?

A. The May number, I think, 1917.

Q. And that was the number you had tentatively said you would take?

A. Yes, sir.

Q. Have you had any visit in the last month from a representative of the Crowell Publishing Company?

A. Yes, sir.

Q. Did he come to you to take on the wholesale distribution of the Crowell publications?

A. To boys only.

Q. And you refused to do it?

A. Yes, sir.

Q. Did you ask permission of the Curtis Publishing Company?

A. No, sir.

Q. You refused on your own account?

A. Yes, sir.

Q. And the Summit News Company at that time was in business and had a large business?

A. Yes, sir.

Q. When this Crowell roadman came to you?

A. Yes, sir.

Q. You are under the new contract, are you not?

A. Yes, sir.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. At the time the "Pictorial" sent you back your check was the Summit News Company wholesaling any magazines?

A. At the time they sent me my check was the Summit wholesaling any magazines?

Q. Yes.

A. They had the Hearst magazines.

Q. Did you go to Chicago in the early part of 1917?

A. Yes, sir.

Q. Will you please state why you went to Chicago?

A. I went at Mr. McKinney's request, on the "Examiner."

Q. At Mr. McKinney's request, on the "Examiner"?

A. Yes, sir.

Q. Is that a Hearst paper?

A. Yes, sir.

Q. While in Chicago, did you make any effort to get the Hearst publications for your territory?

A. That is why he asked me to come there.

Q. Did you get it?

A. No, sir.

Q. Did you ever state, if you were successful in getting the Hearst agency, you would take on "Pictorial Review," irrespective of the Curtis Publishing Company?

A. I said this, if Curtis objected to my taking the "Hearst's," and I took "Hearst's," then I would take the "Pictorial Review."

Q. Did you ever have any trouble about getting copies from the Summit News Company of the "Pictorial Review"?

A. Yes, sir.

Q. Did you ever write a letter stating you had discontinued buying "Pictorial Reviews" from the Summit News Company?

A. Yes, sir.

Q. Why did you have to discontinue that?

A. Just a difference between the news company and us, as distributors.

Q. It had nothing to do with the Curtis Publishing Company?

A. No, sir.

Q. And you say you are handling the Munsey publications, "Motion Pictures," "Literary Digest," "Collier's," "Pearson's," and "The Etude"?

A. Yes, sir.

Q. You took on all these after you became the Curtis agent?

A. Yes, sir.

Q. Did you ask permission in each case to handle these magazines?

A. Yes, sir.

Q. How long ago was it you first handled "Munsey"?

A. I handled "Munsey" at one time—perhaps I could not say definitely, but probably five or six years ago, and they went back to the American News Com-

pany and distributed through them for a while, and then came back independent.

Q. Were you handling the Curtis magazines at that time?

A. Yes, sir.

Q. Were you subpoenaed by the Federal Trade Commission to attend a proceeding before the Commission and give testimony?

A. Yes, sir.

Q. Will you state why you did not appear?

A. I was not in town at the time the subpoena was received. I was in Pennsylvania at the time. I think the subpoena came Friday and I was to appear Monday. I did not return until Monday, and it being a heatless Monday, I did not go to the store. I did not get it in time, and also, being a heatless Monday, I supposed the hearing would be in session on Tuesday, and I found they were not.

Q. You explained that to the Commission?

A. Yes, sir.

Q. Do any of your boys sell "Collier's"?

A. No, sir; we have no boys selling "Collier's" except two corner boys.

Q. Are they Curtis boys—the two corner boys?

A. They sell practically everything that is sold.

Q. You report them as Curtis boys?

A. For what they sell.

Q. Do they sell "Literary Digest"—are they your boys?

A. We have no boys selling "Literary Digest."

Q. Has there been any effort made to get your boys to sell other magazines?

A. Not that I know of.

MR. SPIESS: That is all.

MR. WELCH: That is all.

W. S. CARTER was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Ashland, Kentucky.

Q. What is your business?

A. Cigars and confectionery.

Q. Have you also the Curtis agency at Ashland?

A. Yes, sir.

Q. You wholesale the Curtis magazines?

A. Yes, sir.

Q. How long have you been agent there?

A. Since the month of May, 1911.

Q. And was the Curtis magazine the first magazine that you took on in a wholesale way?

A. The first and only one.

Q. Have you ever wholesaled any newspapers?

A. No, sir.

Q. Is there any other newspaper wholesaler in Ashland?

A. Yes, sir.

Q. Who is he?

A. Mr. Curtis is now in that business and I think Pollack also.

Q. What does Mr. Curtis handle?

A. Several dailies and other publications. I do not know what line he handles.

Q. Pollack handles the "Pictorial"?

A. Yes, sir.

Q. How many boys have you?

A. Eight.

Q. And are there any dealers in Ashland?

A. Yes, sir.

Q. And you supply them?

A. Yes, sir.

Q. How do you deliver to them?

A. I deliver myself.

Q. Do you have to maintain a truck for that purpose, or how do you make your deliveries?

A. I make them myself personally; it is only a small agency.

Q. And the Curtis Publishing Company has cooperated with you in working with these boys and helping you get them?

A. Yes, sir.

Q. Have the boys won premiums or prizes at any time while you have been district agent?

A. Yes, sir; I have had one boy who won $250, and a pony and cart, and several of the other boys won smaller prizes.

Q. They all get bonuses or premiums if their sales are up to the mark?

A. Yes, sir.

Q. And you yourself have received prizes?

A. Yes, sir; I think the total prize winnings for Ashland since I have had the agency there, would approximate $600.

Q. You were asked to handle the "Pictorial Review" wholesale, were you?

A. Yes, sir.

Q. At that time, this other magazine wholesaler was in business at Ashland?

A. Yes, sir.

Q. And open to approach to anybody who wanted to have a publication wholesaled—is that true?

A. Yes, sir.

MR. MILBURN: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. How many "Posts" do you sell a week?

A. We are drawing 200 a week.

Q. How many "Ladies' Home Journal"?

A. Two hundred a month.

Q. And "Country Gentleman"?

A. Fifty a week.

Q. How much time during the month does it take you to take care of that business?

A. You mean the total time during the month?

Q. Yes.

A. Well, I suppose five hours would cover it for the whole month, more or less.

MR. SPIESS: That is all.

W. A. STOUTE was called as a witness on behalf of the respondent, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. MILBURN:

Q. Where do you live?

A. Bloomington, Indiana.

Q. What is your business?

A. Drug business.

Q. Are you also the Curtis agent at Bloomington?

A. Yes, sir.

Q. How long have you handled their magazines at wholesale?

A. Since May or June, 1913.

Q. Have you ever wholesaled any other magazine?

A. No, sir.

Q. Have you ever wholesaled any newspapers?

A. No, sir.

Q. How many dealers do you supply?

A. Five drug stores, two book stores, and a candy kitchen.

Q. How many boys have you?

A. From fifteen to eighteen regularly.

Q. Do they sell the Curtis publications?

A. Yes, sir.

Q. Do they sell any other magazines?

A. Some of them sell newspapers, but not magazines.

Q. They do not get the newspapers from you, do they?

A. No, sir.

Q. If they have spare time they go to the newspaper dealers?

A. Yes, sir.

Q. How many do that?

A. Probably five, six or seven.

Q. As far as magazines, they sell only the Curtis publications—is that correct?

A. Yes, sir.

Q. And have you worked with these boys in an educational way, to show them how to sell their magazines?

A. Yes, sir; a number of times I have endeavored to show them how they could benefit by keeping at the work and co-operating with the Curtis Publishing Company. They have, a number of times, had occasion to have meetings and impress on them—try to impress on them—the good that could be derived from co-operating with the Curtis Publishing Company because of their many inducements to sell, in the way of prizes, and they furnish them route books and customers' books that they keep their customers' names in, and they let them have—for instance, they would credit them from one week to another. I have continued them considerably about extending credit.

Q. They get a little experience in keeping accounts and credits—is that correct?

A. Yes, sir.

Q. And in learning the elements of salesmanship?

A. Yes, sir.

Q. And as the result of these efforts the Curtis Publishing Company gets an increased circulation?

A. Yes, sir.

Q. Do you know any other magazine publishing house that goes into this work to the same extent as the Curtis Publishing Company does?

A. No, sir.

Q. In the way of furnishing premiums and bonuses and prizes?

A. I never had any knowledge of any other company doing that.

Q. They are behind your agency and supporting it to make it a success?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. The keeping of these accounts is very interesting?

A. There is not much to it as far as the child is concerned, but I consider it a good beginning.

Q. It takes some time to train a boy to keep accounts of this kind?

A. Not necessarily, if they are intelligent.

Q. Do you not find it hard to teach these boys to keep their accounts straight?

A. They keep their own accounts.

Q. Do you not find it hard to train them to do that?

A. I do not have much time to talk to them about that, but every chance I get, I talk to them.

Q. How many "Posts" do you sell?

A. Three hundred.

Q. How many "Journals"?

A. Two hundred or 250.

Q. These six or seven boys selling Curtis publications, you report as "Post" boys?

A. Yes, sir.

Q. Are all of the boys school boys?

A. Yes, sir.

Q. And these boys sell newspapers after school?

A. A few of them.

Q. Do they sell papers every day?

A. I think they do.

Q. That does not interfere with their selling the "Posts" one day a week?

A. No, sir.

MR. WELCH: We have no other witnesses here, Mr. Examiner. We will have to take an adjournment now until some time later on.

MR. DALY: Suppose we adjourn to a time to be fixed by counsel on both sides, and if we cannot agree on a time, the Examiner will fix the time.

EXAMINER MOORE: Very well, we will take a recess now with that understanding.

(Whereupon, at 12.30 o'clock P. M., an adjournment was taken in accordance with the above.)

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission.
v.
Curtis Publishing Company.
} Docket No. 15.

New York City, July 1, 1918.

The hearing was resumed, at Court Room 2, Woolworth Building, at 11 o'clock A. M., pursuant to adjournment.

Before: CHARLES S. MOORE, Examiner.

Present: MR. JOHN WALSH, chief counsel for the Commission, and MR. A. M. DALY and MR. L. A. SPIESS, on behalf of the Commission.

Appearances: MR. JOSEPH W. WELCH and MR. JOHN MILBURN, JR., on behalf of the Curtis Publishing Company.

M. E. DOUGLAS was recalled as a witness on behalf of the respondent, and, having been previously sworn, testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Douglas, when some of the traveling representatives of the Curtis Publishing Company testified, it appears that there was a period that you took no action toward changing any agents that had been

found to be handling the "Pictorial Review" and Crowell Publishing Company's magazines without obtaining permission from the Curtis Publishing Company as provided in the contract.

Will you state, in that connection, whether you gave any such directions, and what those directions were, to the various traveling men of your company, and also the reasons therefor?

A. Those directions were given to our field men on April 11, 1917. The reason was that just before this we had had a conference with representatives of the Federal Trade Commission in Washington, and from that conference it developed that the Federal Trade Commission or its representatives felt that we ought not to continue, at that time, so we told our agents.

Q. Your agents?

A. We told our roadmen to stop any transfers, on those grounds.

By Mr. Daly:

Q. You mean transfers of agents?

A. Transfers of agents, and to keep no previous appointments made, with a view to such transfers, and to discontinue discussing this question with their district agents; and it was in pursuance of those instructions that these roadmen proceeded, as they testified previously in this case.

By Mr. Welch:

Q. And those instructions were given by you, and that action was taken, in deference to the suggestion of the Federal Trade Commission's representatives?

A. Yes, sir.

Q. Now, how long did that continue—that inaction on the part of the company?

A. That inaction continued approximately seven months, with the exception perhaps of one or two iso-

lated cases, where, due to pressure brought upon the agents to force our hands, we did, on advice of counsel, go to the extent of stating what our position was in certain cases.

Q. Those were exceptional cases?

A. Those were exceptional cases.

Q. And to what month and year did that inactivity continue?

A. Approximately until November, 1917.

Q. And then, in November, 1917, you altered your policy?

A. Yes.

Q. Between the conference that you speak of in April and that time, the Federal Trade Commission had commenced this proceeding?

A. Yes.

Q. What was the reason for your changing your policy about November, 1917?

A. The Pictorial Review Company and the Crowell Publishing Company, through their agents in the field, were taking advantage of the situation. Their representatives were stating that we had thrown up our hands. The situation was such that we could only protect our company, in the enjoyment of our rights, by taking some action.

Had we not done so, we would have abandoned all rights, prior to the decision of this proceeding.

MR. DALY: I object to his stating what his people were stating in the field. Cannot you bring it closer than that, Mr. Welch? I think we have gone all over that, too.

MR. WELCH: Mr. Daly, the testimony is quite full of statements by witnesses, and also correspondence that the "Pictorial Review" stated that the Curtis Compaiy had abandoned all opposition. That is all through the testimony. It was the rea-

son why those reports—those reports coming to Mr. Douglas, was the reason why he was obliged to change his attitude, which had been taken in deference to the suggestion of the Federal Trade Commission.

MR. DALY: Well, he has already testified to that, has he not?

MR. WELCH: No, I don't think so.

MR. DALY: I thought he had.

MR. WELCH: It is simply to show the reason for this inactivity, which was somewhat emphasized by you, I think, on the cross-examination of our roadmen, and to show why the inactivity could not be continued.

EXAMINER MOORE: Do you withdraw your objection, Mr. Daly?

MR. DALY: Yes.

By MR. WELCH:

Q. Now, Mr. Douglas, there has been considerable testimony in the case with reference to the appointment and designation of new men as agents for the Curtis Publishing Company. Will you state what your practice is with respect to instructions to a new man, and what training he is given, in order to fit him to fill the position properly?

A. A new district agent comes in, following a personal visitation by our roadman. Before the roadman leaves the new district agent, he goes personally with him over the duties and the requirements of a district agent. He instructs him personally in regard to just what we will do, and in regard to just what the district agent will do, covering the field of the activities of the district agent.

That is the roadman's duty at the time of the appointment of a district agent. When the contract comes to us for ratification, or to the branch office

where the account is carried, if it be in a branch territory, a manual of instructions is sent to the district agent.

Usually there are some special and exceptional situations that require the sending of personally dictated letters to the new appointee. This is done by the branch manager in the Philadelphia office—by the district manager in the Philadelphia office, or by the district manager, if the account be carried in a branch.

In addition to that, we have current leaflets of printed matter bearing upon current affairs, and plans of one sort or another. In other words, supplementing printed instructions, in addition to the other matters which go out, and in addition to that, there are the current numbers of the house organs, which are mailed to the new agent either from the home office or from the branch office, after ratification.

Q. The first instructions, as I understood you to say, was given by the traveling roadman?

A. By the traveling roadman.

Q. And he takes it up personally with the new agent?

A. Yes.

Q. Does he cover, in his instructions, and direct the boys regarding their duties in the keeping of accounts and such matters?

A. Yes, sir.

Q. In a great many instances—the majority of instances, I think you testified—that the district agents of the Curtis Company have never wholesaled any magazines prior to the time they take on your publications?

A. The great majority did not?

Q. And their first experience was with your publications, and their first training and teaching was through your men, I presume?

A. Correct.

Q. Now, Mr. Douglas, at pages 1949 and 1950 of the record, I think you and Mr. Daly somewhat misunderstood one another. You were asked when you began—this is page 1949—with the American News Comapny, and then, having stated 1883 for the "Journal," Mr. Daly asked if you followed that method, up until that date, and you said you followed that method up to December 30, 1899.

You were then asked if you adopted different methods and you said yes. As a matter of fact, you followed the method of distribution through the News Company up to December 30, 1899, with respect to the "Post"?

A. That is correct.

Q. But you continued with the News Company in all respects, as far as the "Journal" was concerned, up until 1910?

MR. DALY: Where are you now, Mr. Welch?

THE WITNESS: That is correct.

MR. WELCH: Just changing the dates which appear in the direct testimony, which seem to have gotten a little confused.

MR. DALY: What page is that on?

MR. WELCH: Page 1949.

By MR. WELCH:

Q. And, upon the same page, you were asked: "To what extent did you distribute your papers through the American News Company, after the new plan," and you said: "To the extent of the demand by the retail newsdealers."

Now, you referred there to the new plan of distributing through boys, did you not?

A. I meant that after we began selling the "Journals" direct, through our agents in 1910, thereafter we continued supplying the "Journal" to the American News Company, to the extent of the demand upon

the American News Company by the newsdealers who dealt with the American News Company.

Q. But the new plan which Mr. Daly referred to was a plan which you had described as distributing through boys?

A. Yes.

Q. And, after you adopted that plan, which was in 1899, you did not continue to circulate the "Post" through the News Company; is not that a fact—distribute the "Post"?

A. Why, we had continuously distributed the "Post" through the News Company.

Q. Only in a limited way?

A. But to a less extent.

MR. DALY: Let him testify, Mr. Welch.

THE WITNESS: To a less extent.

MR. DALY: Ask him a question.

MR. WELCH: I asked, Mr. Daly.

MR. DALY: You are telling him what you want to say.

MR. WELCH: That is all in the direct examination. I am simply trying to straighten out what got confused in the questions here. It is all perfectly clear in his direct examination. I don't want the record to misstate anything.

By MR. WELCH:

Q. The new plan that you were testifying about there did not apply to the "Journal" in 1899, did it?

A. No.

Q. That did not apply to the "Journal" until 1910; is that correct?

A. Correct.

Q. At page 2045 you were asked: "When did you go away from the American News Company?" by Mr. Daly, referring to both the "Journal" and the "Post." Your answer was, with respect to the "Journal," "In

1910"; with respect to the "Post," "Approximately 1908 or 1910." The "Post" date there is not correct, is it?

A. There is a distinction—there was a difference in our actual practice upon those two different dates.

Q. With respect to the "Post"?

A. Yes. The boy plan began in 1899, at the time designated, the first date mentioned; and from that time up until approximately 1908 or 1909, the second date you mentioned, the district agents were supposed not to sell the "Post" to dealers previously supplied by the American News Company; but, beginning at approximately 1908 or 1909, by reason of the difficulty and friction which I testified to at approximately that same place in the Record, we then told the retail dealers that they might order, either from our district agents or from the News Company, whichever they preferred. That is what I meant to say.

Q. What was that difficulty or friction that you have referred to? You never told us what it was.

A. The difficulty was this: the News Company had been dealing with us on the "Post," at the time we started the boy plan, on the understanding that the district agents, would not, if we could help it—would not be authorized or permitted to supply to dealers that had previously been supplied by the American News Company, but, with the development of the plan, it became increasingly evident to us that we could not prevent that. There was constant friction between the American News Company and us—correspondence regarding complaints of divergence from them of dealers who were getting copies from our district agents, contrary to the understanding we had with them, and because of this friction and these complaints we were obliged to send our roadmen to investigate certain district agents, who were charged with taking dealers

from the News Company—diverting business from the News Company; and that thing went on, and it necessitated a great deal of expense to us—clerical expense in the office, transportation expense, salaries of roadmen, and so forth. We had to discharge a number of agents for doing this, until it came to a point where the circulation through the district agents and the boys was very much greater than the total circulation of the "Post" through the News Company, and it looked to us as if the "tail was wagging the dog," and we then said to the American News Company that thereafter any dealers should be free to order from the News Company or the district agents or from us, whichever was preferred, and it was for that reason that decision was arrived at.

Q. You were asked by Mr. Daly, on your cross-examination, with respect to whether you paid any salaries to new agents, and you stated at that time that if so there were very few instances, but that you did not know of any at the time. Can you testify about that now?

A. Yes. There are eight or nine cases of salaries or guarantees to new district agents made after acceptance of their arrangements with us. Some of them are now in effect and some have been discontinued.

Q. That is, out of your whole force of district agents, the new ones who have been appointed are only eight or nine?

A. Yes, sir.

Q. Were those salary arrangements made before or at the time of the appointment of the agents?

A. I believe in every case subsequent to.

Q. That is, after he had commenced to act as the district agent?

A. After he had signed the contract and came into us and commenced to act.

Q. No salary arrangement had been made prior to that time?

A. I can find no case of a salary being offered to induce acceptance.

Q. At page 1833 of your testimony, Mr. Douglas, you were referring to certain roadmen that you had in 1910, and I asked you whether these roadmen were salaried men or not, and you stated no; not at first. How were those men paid, at first?

A. On a commission basis.

Q. Will you just briefly explain what the voucher plan is that has been referred to in the record in a number of cases?

A. The voucher plan is a method of stimulating boys on a non-competitive basis, to greater sales.

Q. How does it work?

A. We give the boys vouchers in accordance with their sales. We give them a book of prizes. They save the vouchers as a means of obtaining the prizes. The book of prizes states the number of vouchers required for each particular article in it. When the boy has accumulated enough vouchers to enable him to obtain the article, he sends us the vouchers and we give him the article.

Q. Who gives the vouchers to the boys?

A. The district agents.

Q. Do the district agents give out the prizes in any cases?

A. We have, in some cases, sent the articles themselves to the district agent to give out to the boys. When the plan was first started there, we sent to every district agent then on the list, a sample outfit of articles or prizes, ranging in value from $10 to about $50. The district agents displayed these and the boys took them in exchange for vouchers. We still do that in a very limited way.

Q. You still do what?

A. We still have certain of the articles with certain district agents in a limited way.

Q. But your voucher plan is still in full force, as in the beginning?

A. Yes, sir.

Q. That has not been limited in any way?

A. No, sir.

Q. These prizes amount to a considerable sum during the year, as I think you have testified?

A. To large sums.

Q. At page 1856 of the record, you were asked about a publication called "The Curtis Plan for Boys," to whom it was issued, and you answered, "This was issued in connection with our league plan, in connection with the arrangements made with the Y. M. C. A., whereby each league member, upon qualifying as such, has his league membership fees paid by us, if there be a Y. M. C. A. in the town." Do you wish to make any correction in that?

A. If I understand what you have reference to, that leaflet was sent to the Y. M. C. A. secretary.

Q. You speak of his league membership fees being paid by you.

A. Oh, I beg your pardon. I meant the Y. M. C. A. fees.

Q. Exactly. Mr. Douglas, at page 2103 of the record, you were testifying about the 1456 district agents that had been investigated, the results of which were reported to you, and you said that the 1456 covered a number in Canada. Mr. Daly asked you how many there were in this country—twelve hundred and something—and you said, "Yes; twelve hundred and something"; that there were over 1200 of those district agents investigated in the United States. Have you since made a specific examination with respect to those figures, and do you wish to change them?

A. That statement of mine—twelve hundred and something—was based upon——

Q. That is incorrect?

A. Yes; it is incorrect. One thousand three hundred and seventy-five is the correct figure.

Q. That is to say, 1375 district agents in the United States were investigated?

A. Yes, sir.

Q. How many would that have in Canada for investigation?

A. Eighty-one.

Q. Now, of the 1375 Curtis district agents in the United States investigated, how many were not dealing with other publishers as magazine wholesalers when they joined the Curtis force?

A. One thousand two hundred and seventy-three.

Mr. Daly: What was that question, Mr. Douglas?

Mr. Warren: It is exactly the same question, Mr. Daly. I am refer to the page following right along with the figures we first put in, only it is confining it now to the agents in the United States.

Mr. Daly: What agents do you mean—all of your district agents in the country?

Mr. Warren: In the United States.

Mr. Sinnot: Read the question.

(The stenographer repeated the question.)

Mr. Daly: You have already put in figures about that.

Mr. Warren: We have put in figures about the total number. I am now simply dividing the Canadian and United States figures and putting in Mr. Douglas's figures applying to the agents in the United States.

Mr. Daly: I understand.

By Mr. Welch:

Q. Now, of the 1375 Curtis district agents in the United States investigated, how many were, at the time they took on the wholesaling of the Curtis publications, dealing with other publishers, as magazine wholesalers?

A. One hundred and two.

Q. How many of the 1375 district agents in the United States investigated were not dealing with other publishers as newspaper wholesalers when they took on the wholesaling of the Curtis publications?

A. Nine hundred and eighty-one.

Q. How many of the 1375 district agents referred to were, at that time, engaged in the wholesaling of newspapers?

A. Three hundred and ninety-four.

Q. How many of the 1375 district agents referred to are not, at the present time, dealing as magazine wholesalers for other publishers?

A. One thousand and nine.

Q. Of these 1009 referred to, how many are retail merchants?

A. Five hundred and thirty-six.

Q. Of the 1375 district agents referred to, how many are not, at the present time, dealing as newspaper wholesalers for other publishers?

A. Nine hundred and twenty-eight.

Q. Of the 1375 district agents referred to, how many are now dealing as newspaper wholesalers for other publishers?

A. Four hundred and forty-seven.

Q. Of those same 447 district agents who are now dealing as newspaper wholesalers for other publishers, how many were put in the magazine wholesaling business by the Curtis Publishing Company?

A. Three hundred and sixty-five.

Q. Of these same 447 district agents, how many wholesaled the Curtis magazines before they wholesaled any newspapers?

A. Seventy-eight.

Q. The figures you have given are based upon the investigation of the district agents located entirely in the United States?

A. Yes, sir.

Q. And those figures are based upon the investigations made by the various roadmen who have testified in this case?

A. Yes.

Q. The number of district agents testified to by you, at page 1819 of the record, exceeds slightly the number of district agents which the various roadmen that have testified, covered in the aggregate. Is that difference due to the Canadian situation you have testified to and any other causes, and if so, so state?

A. Partly to the Canadian situation——

Q. That is, you called no roadman with respect to any Canadian agencies?

A. No, sir. There was one territory investigated by a man subsequently drafted in the army whom we could not locate and could not call.

MR. DALY: Is that one of these investigators?

THE WITNESS: Yes.

By MR. WELCH:

Q. Then you mentioned several agents who were not covered by any roadmen whatsoever?

A. Yes, sir; there are certain towns in the United States from which we got no data at all. The roadmen were not able to get to them within the time allowed, and there were some district agents not in the territory of any of our roadmen.

Q. That accounts for the slight difference in the numbers testified to by you and the numbers covered by the roadmen?

A. Yes.

Q. Who was the roadman who was drafted?

A. Mr. Grossman.

MR. DALY: Was drafted or was not?

THE WITNESS: Was. Perhaps I should qualify that. I do not know whether he was drafted or enlisted, but he went into the army and we were unable to locate him and we do not know now where he is.

MR. WALSH: No matter what happened, it is to his credit.

By MR. WELCH:

Q. What locality did he cover?

A. He was a roadman for the New York branch office.

Q. That is, he covered what territory?

A. New York City and one or two towns on the Jersey side.

Q. Mr. Douglas, have you made up the figures showing the sales through the American News Company of the "Journal," from 1909 to 1917?

A. Yes.

Q. Will you give the figures for 1910 to and including 1917? I want the sales figures of the "Journal" through the American News Company?

A. 1910 the average monthly sales were 415,462; 1911, 206,306; 1912, 183,502; 1913, 158,186; 1914, 121,267; 1915, 88,903.

MR. DALY: How much?

THE WITNESS: 88,903; 1916, 83,231, and 1917, 79,429.

By MR. WELCH:

Q. As your sales through your district agents were proportionately increased, your sales through the News Company decreased?

MR. DALY: I object to that. Why do you not ask him about it?

MR. WELCH: It is just what he testified to.

By MR. WELCH:

Q. Were those sales you testified to, through the News Company, on a non-returnable basis?

A. Non-returnable.

Q. Mr. Douglas, in the prior testimony, mention has been made of the Curtis League. Will you just give us a brief outline of what that is; what is its growth and present status?

A. Why, the League is an organization created, financed and directed by the Curtis Publishing Company in the interest of its circulations, and in the interests of the boys, the parents and teachers of the boys.

The commercial excuse for it was it had its root in the desire to get away from the national competitive offers that we had previously made for a boy. Among the ends that it seeks to accomplish, aside from the commercial purposes stated, is to keep the boys longer in school, to carry them farther and faster through the grades, and to place them in good salaried positions, with dependable employers, after they get through school.

To accomplish these purposes, aside from our commercial interest in it, we carry on a great deal of correspondence between our home office and our branch offices, with the parnets of the boys, with the teachers of the boys, with the Y. M. C. A., and our roadmen spend a good deal of time interviewing parents, talking with the teachers, and so forth. That is the outline of the League.

Q. In conjunction with the League at the present time all of these boys are organized into a so-called "Curtis army," are they not?

A. Yes.

Q. And have been given specific ranks?

A. Yes.

Q. And the senior officers of the army are the league members; am I correct about that?

A. League members, yes.

Q. Beginning with the number of boys who have risen to the rank of corporal, will you just give the number, gross totals of the boys who have been admitted to office and now hold some office in the Curtis army?

A. A total of 15,805 boys have attained rank in the army, from the rank of corporal up to master salesman.

Q. To keep our titles in order, the master salesman is the colonel, is he not?

A. He is the colonel.

Q. He is the highest rank?

A. He is the highest rank.

Q. Will you give me the numbers of those next above the corporal? How many have attained the rank of sergeant?

A. Six thousand eight hundred and eighty-six.

Q. How many lieutenants have been appointed?

A. Four thousand two hundred and eighty-seven.

Q. How many captains?

A. Two thousand two hundred and twelve have attained that rank. That is the first rank in the league —I mean the lowest rank in the league.

Q. How many majors?

A. Seven hundred and twenty-five have attained that rank. That corresponds with expert salesman.

Q. How many colonels?

A. Two hundred and forty-nine have attained the rank of master salesman.

Q. Master salesman is colonel?

A. Yes.

Q. You said that in connection with this work you have carried on quite an elaborate scheme of correspondence. I wish to offer certain letters, and will ask you with reference to them.

When a letter for league membership is received, is this letter which I hand you —

MR. DALY: Mr. Examiner, I thought we had this league business all in, several times over. We do not deny they have this league, and that they do those things.

MR. MILBURN: I think, if there is no denial this league exists, that elaborate efforts are made in its support, elaborate expenditures undergone—I do not believe we would want to—I would want to fill the record with all of this correspondence. I want to have it proven on the record, or an admission on the record beyond a doubt that it does exist, as has generally been testified.

MR. DALY: We have never made any contention that you did not have this league.

MR. MILBURN: If you do not make any such contention, then I won't put it in.

MR. WELCH: We are entitled to show the workings of it.

MR. DALY: You have shown the workings, all the way through. We think we understand it, what correspondence goes out, and so on. You have got in what you spend on it, and all of that. We have no way of contradicting it, if we wanted to.

MR. MILBURN: It is not open to contradiction, because it is the fact. These are the letters that go to the parents, the Y. M. C. A. secretaries, the boys themselves, as they attain the different ranks. If there is no dispute about that, I won't put them in.

MR. DALY: I do not dispute that is all done, Mr. Milburn.

MR. MILBURN: I have spoken to Mr. Douglas about it, and I would like to put in a few of the samples of letters, so it can be clear, in reading the record, just what this activity is. I think we are entitled to do that. There are ten of those letters here. We have got plenty of others.

MR. DALY: Mr. Examiner, I do not want to be captious about a thing like that, but the testimony is there, over and over again about this league, in that these agents go out—so-called agents go out and call on the parents, find out what becomes of the boys, go to the schools—it is the same thing you are going to put in, is it not?

MR. MILBURN: Yes; and it also substantiates some proof that there is in the record as to the activities of the agents with the boys, that they are constantly supervised by the home office.

EXAMINER MOORE: I think the letters are admissible.

MR. MILBURN: There are but ten of them.

EXAMINER MOORE: Limit them as much as possible. I think the record is full on the league business.

By MR. MILBURN:

Q. I hand you a letter and ask you if that is a letter written by the Curtis Company to the applicant, on receipt of his application for membership in the league?

A. It is.

MR. MILBURN: I offer this in evidence.

EXAMINER MOORE: Do you desire to have these put in the record, or made exhibits?

MR. MILBURN: Have them in the record, the way the rest are.

MR. DALY: I would like the record to show again, Mr. Examiner, that all of this testimony—I have made several objections through the record, that all of this testimony with reference to the league, all about the boys and the activities of the Y. M. C. A., is irrelevant in this case, and that whenever it goes in, it goes in under our objection, and the same objection on this.

EXAMINER MOORE: For the record, the objection is overruled.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 35," and is as follows:)

RESPONDENT'S EXHIBIT NO. 35.

"THE LEAGUE OF CURTIS SALESMEN
The Champion P-J-G Salesmen of the World
Curtis Building
Philadelphia Pa

You have done well to seek membership in The League of Curtis Salesmen. I am pleased to receive your application, because I know you are ambitious, and want to do your best. And I believe you can succeed, and become a Member of The League.

Your application will be accepted as soon as we have a reply to the letter which we are sending your parents. They must answer that letter before your name can be considered. Ask them about it and see that their answer is mailed within the next few days.

When you are promoted to Membership, you will have all the Membership awards. Here they are:

A place among the Champion P-J-G Salesmen of the World;

A MEMBERSHIP IN THE LOCAL Y. M. C. A., at our expense—provided there is an Association in your Town;

A League knife.

200 Business Cards.

200 Letterheads and envelopes printed with your name and address.

A sealed and signed diploma.

A fine bronze Triangle pin.

With all these benefits, I know that Membership in The League will be your chief ambition. To join the League you must secure and hold not less than 35 customers for THE POST, 20 FOR THE HOME JOURNAL and 10 for THE COUNTRY GENTLEMAN.

Play the League game hard. Play it as you would a football or baseball game. Instead of so many yards to gain, or runs to score, make it so many regular customers to secure and you WILL be successful.

Promotions are made on the first Monday of February, May, August and November. To be promoted you must have the required number of customers at least a month before promotion date.

When the results of the next promotion are announced, I hope to see your name as a member. It's up to you. You have made the start. Finish a winner!

Very truly yours
THE LEAGUE OF CURTIS SALESMEN
N. Frank Neer,
Secretary of The League."

By MR. MILBURN:

Q. I show you a letter, and ask you if that is the form of letter that is mailed to the parent of the applicant, on receipt of his letter of application.

A. Yes.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 36," and is as follows:)

RESPONDENT'S EXHIBIT No. 36.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia

The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman

Vocational Division

It gives us great pleasure to acknowledge your son's application for membership in The League of Curtis Salesmen. We are glad to recognize in him a boy who has the desire to make good.

To make it possible for him to realize his ambition for League Membership, we ask you to answer the few questions on the page attached, and to return it in the inclosed stamped envelope. We cannot accept your son's application for membership until your answers are received, because we need the information to help him intelligently as you would have us.

Several material benefits will come to your boy through membership in The League, including our recommendation for membership in the Boys' department of the nearest Y. M. C. A. at our expense. Greater still, in our estimation, will be the honor evidenced by our certificate of his ability, initiative, perseverance and determination.

You can be a source of genuine inspiration to

your boy in his efforts for League Membership. Together, we can encourage him to continue in school until he graduates. And during his afternoon hours help him do well those things necessary for promotion to The League and to its higher degrees. When your boy has received The League's greatest honor—the degree of Master Salesman—and has finished his schooling, you and he have

OUR GUARANTY

to secure for him, upon your request, a good salaried position with a reputable employer, in or near your city—a position with opportunity for advancement. Twenty-one hundred prominent firms and companies have registered with us applications for the privilege of interviewing our Master Salesmen with a view to employment.

Will you help your boy to be a 'Master'?

Yours very truly,

THE LEAGUE OF CURTIS SALESMEN

N. Frank Neer,

Secretary of The League.

Good Salaried Positions Guaranteed our Junior Master Salesmen."

By MR. MILBURN:

Q. I show you a form of a letter and ask you if that is the form of letter that goes to the teacher of the applicant?

A. That goes to the teacher of the boy applicant.

By Examiner Moore:

Q. In every case?

A. Yes, sir.

Mr. Milburn: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 37," and is as follows:)

Respondent's Exhibit No. 37.

"The Curtis Publishing Company
Independence Square
Philadelphia

The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman

Circulation Department

Sales Division

For membership in The League of Curtis Salesmen we have just received an application from one of your pupils,

Because of your profession you are, of course, interested in boys—Curtis boys and others. The Curtis Publishing Company has a genuine desire to increase the efficiency of their boy salesmen, mentally, morally and physically. You and we, therefore, have a community of interest that justifies co-operation.

The League of Curtis Salesmen, will, we believe, enable you to hold longer in school, boys who might otherwise leave prematurely. One of the best ways to carry a boy farther through the grades is to give him a spare-time plan by which, for profit, he may obtain practice in applying in his own life what he is learning out of books. Success is putting ideas into practice. Most school boys need opportunity to practice arithmetic, lan-

guage, spelling and penmanship in real business transactions adapted to their experience. The League of Curtis Salesmen offers an approved way of doing it.

We are anxious to co-operate with you in helping this boy to advance in his studies. Not knowingly will we allow his Curtis work to interfere with his school work. For this reason we shall be glad to learn how we can assist you in your plans for a better school record by him. Our experience is that school boys, who supplement their school work with some approved outside activity, develop faster mentally, acquire more initiative and go farther through the second grades.

An expression from you as to how we can serve both you and any of your school boys will be welcomed by us.

Very truly yours
THE CURTIS PUBLISHING COMPANY
N. Frank Neer,
Vocational Division.

Good Salaried Positions Guaranteeed our Junior Master Salesmen."

THE WITNESS: The district agent does not know anything about them, half the time.

By MR. MILBURN:

Q. I hand you a letter and ask you if that is the form of letter that goes to the district agent, after the applicant has been accepted and been promoted into the League?

A. After promotion of the applicant, this letter goes to the district agent.

MR. MILBURN: I offer that in evidence.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 38," and is as follows:)

RESPONDENT'S EXHIBIT No. 38.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Circulation Department
Sales Division

. . . . . .

IS A VALUABLE SUB-AGENT

His work as a Curtis Salesman has entitled him to Membership in The League of Curtis Salesmen. As a member he is ambitious to climb the League ladder, and receive the higher honors of Expert and Master Salesmen. Your coaching and encouragement can crystallize this desire into action. And if you tell his parents that when he is a Master Salesman, and has finished his schooling that

WE AGREE, UPON REQUEST, TO SECURE FOR HIM A GOOD SALARIED POSITION WITH A DEPENDABLE EMPLOYER, NEAR HOME IF PREFERRED.

you will make them valuable friends who will cooperate with you to help their boy. And every step this boy takes upward in The League means extra dollars for you.

Here's how: In accordance with our 'We'll Pay you $9.25 Apiece for Master Salesmen' offer, we agree to pay you $1.00 for every League Member and $3,00 for every Expert Salesman, who maintains the sale of his respective rank for eight consecutive weeks, and $5.00 for every Master Salesman, who maintains the sales of his rank for thirteen successive weeks. So let us coach the

P-J-G boys now selling for us, train them better, serve them better—in short—

MAKE SALESMEN OF THEM!

You can in this way add from a few dollars to several hundred dollars to your District Agency income.

Very truly yours
THE LEAGUE OF CURTIS SALESMEN
LDA-2R Secretary of The League.
INC. $1.00."

By MR. MILBURN:

Q. I show you a letter and ask if that is the form of letter that goes to the secretary of the Y. M. C. A. after the applicant is promoted to the League?

A. That is correct.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 39," and is as follows:)

RESPONDENT'S EXHIBIT No. 39.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Vocational Division

.....

has been promoted to membership in The League of Curtis salesmen.

The information will be of interest to you because all members of The League of Curtis Salesmen in good standing in your city are entitled to membership at our expense in the boys' depart-

ment of their local Y. M. C. A., provided, of course, that they measure up to the standards of the Association.

Will you please look up this boy within the next two weeks to determine whether he will be acceptable to you as a member? If you find him acceptable and not already a member, please return this letter with your 'O. K.' in the margin, together with a bill made out to The Curtis Publishing Company for one year's membership in your Boys' Department.

If he already is a member of your Association, please notify us to that effect, and note on his record card that we are to be billed, on expiration of his present membership, for one year's renewal, provided he is a member of The League in good standing.

We are conferring this unusual honor and privilege on this boy because he has MADE GOOD with us. We want him to have all the wholesome enjoyment and character-building influence that it is in our power to bestow.

We bespeak your interest in him as good Association timber.

Very truly yours
THE CURTIS PUBLISHING COMPANY
N. Frank Neer,
Secretary of The League.

Good Salaried Positions Guaranteed our Junior Master Salesmen."

By EXAMINER MOORE:

Q. Does that letter go on all occasions?

A. Yes; if there is a Y. M. C. A. in town.

Q. Whether the boy belongs to the Y. M. C. A. or not?

A Yes, sir.

By MR. MILBURN:

Q. I hand you a letter and ask you if that is the form that goes to the new member on his admission into the league?

A. That is correct.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 40," and is as follows:)

RESPONDENT'S EXHIBIT No. 40.

"THE LEAGUE OF CURTIS SALESMEN

The Champion P-J-G Salesmen of the World

Curtis Building

Philadelphia, Pa.

Because of your faithful, constant and conscientious work as our sales agent, you have today been promoted a member of The League of Curtis Salesmen. Your League Emblem and your Certificate of Membership, signed by the President of The League, are being mailed to you. The League Knife will follow in two weeks if you maintain your sales up to the League standard in the meantime.

It is an honor to become a member of The League. The promotion carries with it certain privileges and responsibilities. Of our 50,000 boy agents only those are admitted whose work has been exceptionally good with us and in school. We congratulate you on joining the ranks of the Champion P-J-G Salesmen of the World.

As a member you will be recommended for membership in the U. M. C. A., or in the Y. M. H. A., at our expense. Please write us immediately the name and address of the Secretary of your local association. Then we will begin arrangements for your membership.

Just as long as you are a member of The League of Curtis Salesmen in good standing, we will pay your membership dues. Keep up your good work. It will bring you still greater advantages and privileges.

Your next step is to become an Expert Salesman. To receive that honor, you must show the real quality of your ability as a salesman. Read your copy of 'How Juvenile District Agents Can Join The League of Curtis Salesmen.' It will tell you how you can qualify for Expert Salesmanship. If you have mislaid your copy send for another one TODAY.

You can do it. You'd try hard, I know, for the extra money and vouchers, even without the inducement of promotion to Expert Salesman. With that honor, and the extra rewards that go with it—five brown vouchers a month, a subscription to Boys' Life, and a start on a good investment, I am confident that nothing can stop you.

Start out after some new customers *now*.

Very truly yours,

THE LEAGUE OF CURTIS SALESMEN

Secretary of The League."

By MR. MILBURN:

Q. I hand you a letter and ask if that is the form of letter that goes to a member of the league on his promotion to an Expert membership, if he be so promoted?

A. It is.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 41," and is as follows:)

RESPONDENT'S EXHIBIT No. 41.

"THE LEAGUE OF CURTIS SALESMEN

The Champion P-J-G Salesmen of the World

Curtis Building

Philadelphia, Pa.

Here's good news: You have been promoted to Expert Salesman. Accept my sincere congratulations upon your advancement.

We have watched with interest your progress as a Curtis Salesman. It has been fine. It gave us great pleasure to make you a Member of The League and still more to promote you to Expert Salesman. You have shown that you are not satisfied with 'good enough' but are determined to to go the limit. That spirit always wins.

Your next ambition is to become a Master Salesman. When you are promoted to this highest rank you will receive—

The League Triangle in Blue and Gold.

The Master's Certificate.

A monthly dividend of ten Brown Vouchers.

Advance copies of the three Curtis publications.

Your choice of our Vocational Course Offer, the Erector Electrical Set, or a subscription to any one of the following business magazines—System, Advertising & Selling, Printer's Ink or Business.

Last and greatest to you as a 'Master' WE PROMISE THAT, WHEN REQUESTED BY YOU AND BY YOUR PARENTS, AFTER YOU HAVE FINISHED SCHOOL, WE WILL SECURE A SALARIED POSITION FOR YOU WITH A REPUTABLE EMPLOYER IN OR NEAR YOUR TOWN—A POSITION FOR WHICH YOU ARE FITTED, ONE PROMISE OF A FUTURE.

As a young business man who is 'making

good' you appreciate the business value of this guaranty to our Master Salesmen.

You have the best wishes of all of us in your efforts to earn the highest honor of all.

Yours sincerely,

THE LEAGUE OF CURTIS SALESMEN

N. FRANK NEER,

Secretary of The League."

By MR. MILBURN:

Q. Can you furnish me with a form of the letter that goes to the Y. M. C. A. secretary, when the league member is promoted to an expert?

A. There is such a letter, and I will furnish it.

MR. MILBURN: When that is furnished, I will offer that.

By MR. MILBURN:

Q. Now, I hand you a letter, and ask if that is the form that goes to the member of the league when he is promoted to become a master salesman?

A. That is the letter.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 42," and is as follows:)

RESPONDENT'S EXHIBIT No. 42.

"THE CURTIS PUBLISHING COMPANY

Independence Square

Philadelphia

The Ladies' Home Journal

The Saturday Evening Post

The Country Gentleman

Circulation Department

Sales Division

Accept my hearty congratulations upon your promotion to Master Salesman. This is the highest honor in The League of Curtis Salesmen. Of 50,000 junior salesmen, you are one of a small

group of young men who have been chosen for this distinction—a distinction that comes only to those who deserve it. To-day I have signed your Master Certificate; it is going forward to you by registered mail.

This certificate is in itself a strong recommendation to any employer. It stands for all those qualities you have shown yourself to possess—thoroughness, initiative, perseverance, and the ability to use your head. These are qualities all business houses want in the young men they place on their pay-roll.

Because you have shown yourself a young man of exceptional common sense you will not regard this achievement as complete in itself but as a stepping-stone to further accomplishments. By joining The League and becoming a Master Salesman you have made a splendid start in life.

Finish your school course; a good scholastic education is necessary to the successful man. Do not be misled by the false impression that it is wise to leave school early and start work. Later when you and your parents request it, we will secure a good position for which you are fitted. This is our Vocational guaranty to Master Salesmen.

'This or This,' the booklet we are inclosing, shows you the 2100 business concerns that have requested us to refer to them our Master Salesmen with a view to employment.

We want you to understand that you have our best wishes for success and that you may command personal assistance at any time.

Again congratulating you most sincerely,

Yours very truly

THE CURTIS PUBLISHING COMPANY

LCS-23R

Enc. Manager of Sales Division."

By Mr. Milburn:

Q. I hand you a form letter and ask if that is the letter that goes to the district agent when the member of the league is promoted to become a master salesman?

A. It does.

Mr. Milburn: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Responent's Exhibit No. 43," and is as follows:)

Respondent's Exhibit No. 43.

"The Curtis Publishing Company
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Vocational Division

For your coaching and training

, up to rank of Master Salesman in the League of Curtis Salesmen, you are entitled to payment under the terms of our $9.25 Offer.

With pleasure we inclose our check for $5.00 as payment for this your service in line with your duties as District Agent. We will gladly make additional payments for similar service by you in further coaching of other Curtis boys.

May 6th is the date of the next promotions to the League. Look over your 'Who's Who' book. You will doubtless find a number of boys whose records are close to League requirements and who may be promoted with a little encouragement from you.

Remember, we will pay you $1.00 for each League member, $3.00 for each Expert, and $5.00

for each Master Salesman coached and trained by you.

Very truly yours
THE CURTIS PUBLISHING COMPANY
N. Frank Neer.
Vocational Division

INC. $5.00
LCS-DAR"

By MR. MILBURN:

Q. I hand you a letter and ask you if that is the form of letter that goes to the parent of the boy that has become promoted to Master Salesman?

A. Yes.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 44," and is as follows:)

RESPONDENT'S EXHIBIT No. 44.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Circulation Department
Sales Division

You have our sincere congratulations upon your son's achievement in becoming a Master Salesman in The League of Curtis Salesmen. We have watched the young man's efforts as salesman for our publication and have been impressed with his thoroughness and perseverance, with the initiative he has shown, and with the enterprise he has displayed. These are qualities all employers demand in the young men they advance to responsible positions.

We have come to feel a high regard for . Our interest in him, we trust, will not be without value to him. Because he has achieved the rank of Master Salesman, he now has our promise to secure for him, when you request it, a good-salaried position with a dependable employer close at hand, a position for which he is fitted by inclination and temperament—one with a future.

It is our hope, however, that he will not request us to secure this position too soon for him. A good scholastic education is almost a prerequisite to success in life, and our advice to the young man is to finish his school course by all means. Our guarantee to secure a good position for him will be as good then as it is now.

In order that we may come to know your son well, even though it be impossible to have him physically present with us, we ask you to write us from time to time about him. Please feel free to write us about his inclinations, his hobbies, his plans for the future. In this way we shall be enabled intelligently to direct our efforts in securing for him the best market for his talent—the position which will yield him the largest measure of happiness, usefulness and success.

Yours very truly

THE LEAGUE OF CURTIS SALESMEN

LCS 24R Secretary."

By MR. MILBURN:

Q. I hand you a letter and ask if that is the form that goes to the boy's teacher, on his promotion to become a master salesman?

A. Yes.

MR. MILBURN: I offer that.

(The letter referred to was thereupon received in evidence, marked by the stenographer "Respondent's Exhibit No. 45," and is as follows:)

RESPONDENT'S EXHIBIT No. 45.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Vocational Division

You will be interested to learn of success. Because of his faithful P-J-G work and his excellence in his studies, he has been appointed a Master Salesman in The League of Curtis Salesmen.

We have written you of this honorary organization, and we believe you will be particularly interested in this boy's advancement, because his faithful work for you in school and for us outside has earned for him our Vocational Guaranty.

We have promised that when he has finished school and the time comes for him to seek his life work, we will, upon his parents' request, secure for him a good salaried position with a dependable employer in or near your city—a position for which he is fitted by inclination and temperament, one with a future.

Today we have written him and his parents urging that the young man continue in school until he completes his course. A good education is a prerequisite to success in any vocation.

We have congratulated the young man warmly. Similar commendation by you would doubtless encourage him to prepare for his life work.

Your assistance in this boy's progress has been invaluable, and we thank you on his behalf.

Very truly yours
THE CURTIS PUBLISHING COMPANY
LCS-25R Vocational Division."

By MR. MILBURN:

Q. Now, is it not the fact that at different intermediate times there are letters, in addition to these, which are sent out in regular course?

A. Yes; follow-up letters that go in a routine way, to the number of several times the number put in there. The sending of those form letters is only a small part of the operation of the home office. Those form letters bring in a great many personal inquiries from boys, parents and teachers. The letters go into almost every phase of boy life, their activities in school, and out.

MR. MILBURN: That is all.

EXAMINER MOORE: We will take a recess until two o'clock.

(Whereupon, at 12.20 o'clock P. M., a recess was taken until 2 o'clock P. M.)

AFTER RECESS.

The hearing was resumed at 2 o'clock P. M., pursuant to the taking of the noon recess.

M. E. DOUGLAS resumed the stand and testified further as follows:

CROSS-EXAMINATION.

By MR. DALY:

Q. Now, you gave instructions to your so-called agents as to their duties, according to your testimony. That is correct, is it not?

A. Yes.

Q. You had a system by which you instructed all of these agents?

A. You mean the district agents?

Q. Yes; as to the duties they were to perform for your company?

A. Yes, sir.

Q. And you have given those instructions, of course, since the new contract has been put in force?

A. Both before and since.

Q. And all the time prior to that, under the old contract, you gave the agents instructions as to how they should conduct the business entrusted to them—is that true?

A. Not all the time; in exactly the way I have testified.

Q. Explain, will you please.

A. In the early years before we had an adequate force of roadmen, we used to place a great many of these agents—appoint them—by correspondence. In those years, we did not have——

Q. What years did that cover?

A. Chiefly prior to 1912 or thereabouts. There would be some after that time.

Q. The agents during that early period that would be instructed, would be those you did not appoint by correspondence?

A. I do not understand that.

Q. You did not instruct the agents during the early period by correspondence?

A. Yes, sir; we instructed them, but we did not instruct all of them by the roadmen—the early ones.

Q. Who would be the ones who were instructed during the early period——

A. Those appointed by the roadmen and that they could see.

Q. These roadmen would give them instructions?

A. Yes, sir.

Q. After that time, and during the time of this contract which has been talked about so much in this case, the agents still got instructions, did they not?

A. Yes.

Q. And all of them were instructed during this latter period—is not that true?

A. Practically all of them.

Q. And in that way, you have testified, by your roadmen——

A. By correspondence, and so forth.

Q. But chiefly by roadmen, would it not be?

A. Chiefly by roadmen in the past years.

Q. These roadmen cover closely the territory that they supervise?

A. Correct.

Q. Now, during the period of the fall of 1916, these men were constantly being instructed, if there was a new agent appointed or the old agents, would be under the supervision of these roadmen—is not that true?

A. Yes.

Q. Just the same as they had been prior to that time—that is correct, is it not?

A. If I understand you; yes.

Q. Now, then, in February, 1917, that was true, was it not?

A. Yes.

Q. And from February, 1917—say, about the 12th of February, 1917—to April 1st, 1917, they still had instructions, did they not?

A. During that time the different agents under appointment were instructed; yes.

Q. What particular instructions did they have during that time as to the circulation of other magazines, if any?

A. Whom do you mean—the district agents?

Q. Your district agents; yes. You testified that there was a lapse this morning of time when the agents were instructed differently; that is, the roadmen, rather.

A. I beg pardon. I was talking of instructions to roadmen.

Q. Well, the roadmen. The roadmen were instructed though from the 1st of April, 1917, to the fall of 1917?

A. Yes, sir.

Q. They were instructed to keep off, in plain English—is that correct?

A. As I testified here.

Q. From February, in this same year, until the time you gave them from these new instructions, what particular instructions did these men have?

A. That was from February to April, 1917?

Q. Yes.

A. Why, our district agents—our roadmen during that time had instructions that where they found district agents who were disregarding the agreements with us, to call to their attention the instances of their disregard and the agreement.

Q. That is, the restraining clause prohibiting them from handling other magazines without your consent?

A. The roadmen were instructed to call their attention to that.

Q. During the summer, you had advised them not to do that?

A. During the summer, from April to November, they were instructed to make no changes and generally, not to speak of the subject.

Q. Now, you have spoken of these agents' qualifications. I show you a bulletin, issued by E. T. Tobin, and while it may not be strictly admissible, I suppose there will be no objection. Will you look at that (handing paper to witness)?

A. We issued that circular.

Q. You issued that circular?

A. Yes, sir.

Q. And that contained instructions, of course, to these particular roadmen we have been talking about?

A. Yes, sir; to the roadmen.

Q. And I show you also another bulletin, dated November 2, 1917, with reference to the Warner publications (handing paper to witness).

MR. WELCH: There is no objection to that circular.

MR. DALY: We offer this circular letter dated August 1, 1917.

EXAMINER MOORE: Do you wish these letters copied into the Record?

MR. DALY: I think so. We will lose them if we do not.

THE WITNESS: We issued that bulletin to our roadmen.

MR. DALY: I wish these copied into the Record. We offer this letter dated August 1, 1917, and this letter relating to the Warner publications, dated November 2, 1917, in evidence.

EXAMINER MOORE: They will be received in evidence without objection.

(The papers referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibits Nos. 214 and 215," respectively, and the same are as follows:)

COMMISSION'S EXHIBIT No. 214.

"THE CURTIS PUBLISHING COMPANY
Circulation Department
Sales Division,
Bulletin No. 111-B November 2, 1917.
Subject THE WARNER PUBLICATIONS.
For Miss Boyle.

These publications include 'The Smart Set,' 'The Parisienne,' 'Field and Stream,' 'Saucy

Stories,' 'Clever Stories' and 'Fascinating Fiction.'

Hereafter in letters, bulletins, etc., Group Seven will be used to designate the above publications.

It has been stated to us (1) that Group Seven has notified The American News Company that Group Seven publications will to said American News Company and its various branches be non-returnable beginning with the February numbers of said publications, and (2) that Group Seven is about to notify retail newsdealers and wholesalers of periodicals that they may obtain Group Seven supplies direct from the publisher beginning with February.

ATTENTION, PLEASE

Relative to the above: We request that you refrain from initiating any conversation about it with any one not an employee of the Sales Division Staff.

If any District Agent asks you as to our attitude toward his taking on Group Seven publications for wholesale, limit your reply to the brief advice: 'You'd better take this up with Philadelphia.' In each Branch Manager's territory, the Superintendent's answer will be: 'You'd better take this up with your Branch Manager' (naming him).

E. T. Tobin.

Dictated by
M. E. Douglas.
Bulletin No. 111-B. Date, November 2, 1917.

Subject: THE WARNER PUBLICATIONS.

Received this date .....
Superintendent ....."

COMMISSION'S EXHIBIT No. 215.

"THE CURTIS PUBLISHING COMPANY.
Circulation Department.
Sales Division.

Bulletin No. 13-B. August 1, 1917.

For

Subject: QUALIFICATIONS FOR FUTURE APPOINTMENTS OF DISTRICT AGENTS.

When you have occasion to establish a new District Agent or to appoint a successor to a present District Agent, be guided until further notice by the following:

ANY FIRM OR PERSON AT THE TIME WHOLESALING PERIODICALS OTHER THAN OURS SHOULD NOT BE APPOINTED AS OUR DISTRICT AGENT. NOTHING HEREIN REFERS TO NEWSPAPERS.

In other words, appointments hereafter made must be such that each incoming District Agent *start with* a complete and total separation of all promotive, distributive and collective relations between our agency and any local wholesale agency for any other periodical or periodicals.

Effective beginning with any District Agency contracts you forward on or after August 1, each contract must be accompanied by your written assurance that the appointee is not at that time wholesaling any periodical other than ours.

Nothing will be gained by your discussing the above with any person not a recipient of this bulletin. If, because he is disqualified as above, you have occasion to withhold appointment of a candidate otherwise eligible, there will be no need for you to disclose your reason for withholding the appointment. On the contrary, it will be wise not to disclose the reason.

It is possible that adherence to the above policy will entail occasional difficulties. We will meet such difficulties as they arise and will take any steps that may be necessary according to the varying circumstances.

E. T. Tobin.

Dictated by
M. E. Douglas.
Bulletin No. 13-B. Date, August 1, 1917.

Subject: QUALIFICATIONS FOR FUTURE APPOINTMENTS OF DISTRICT AGENTS.

Received this date .....
Superintendent ....."

By MR. DALY:

Q. I hand you page 2 of a circular. We have not page 1, but I suppose there will be no objection.

THE WITNESS: I cannot identify that by this page 2.

MR. DALY: We will withdraw that for the present and offer it later when you have found it in your files.

By MR. DALY:

Q. After this period of time you have testified about, you began to use the same methods, did you not, as to the enforcement of this contract, through your instructions to your roadmen and to your agents?

A. We began to use a different kind.

Q. That is to say, the new contract which has been put in evidence in this case?

A. Yes.

Q. But you did use the same method, did you not, in enforcing the new contract, as you did in enforcing the old?

A. Not quite as you put it, Mr. Daly.

Q. Just what did you do under the new contract, then?

A. Under the new contract, we placed those agents who wanted to be our agents.

Q. I understand that. You have already testifi d to that.

A. And where we found there was a man who did not want to be our agent, we did not place him under that contract.

Q. What do you mean "did not want to be you agent"; he did not care to act for you?

A. I mean a man who did not wish to sustain to us a relation such as I have described in this record.

Q. That is to say, if he was not willing to abide by that particular clause in the contract with reference to handling other publications, you were not willing——

A. No; I mean under that new contract, we wanted, and knowingly appointed, only those men who wanted to be our agents.

Q. I understand that.

A. In the sense of somebody other than purchasers.

Q. I understand you mean from your other testimony—Mr. Welch asked you that question—that you did not force anybody to sign the contract?

A. We did not only not force anybody to sign the contract, but would not appoint anybody under that contract unless they met with those specifications.

Q. That is, that provision of that contract. They had their choice, did they not?

A. No; that is the exact point I wish to make.

Q. Just make it clear. That is all I want—just the facts about it.

A. Where we found that there was on our list a man whose real attitude was that he promised to be his own boss, irrespective of our needs and requirements, and irrespective of his contractual obligations to us—

if that was his attitude—and he did not want to be our agent, we did not give him that contract and did not give him a chance to say whether he wanted to be or not.

Q. You appointed somebody else?

A. We appointed somebody else; yes, sir.

Q. But, of course, you expect to enforce this contract, do you not?

A. This new contract?

Q. Yes.

A. Obviously so.

Q. And that particular provision about handling competitors—rather, the magazines of others, we will call it—you expect them to live up to that?

A. We expect to enforce the new contract in accordance with its terms; yes.

Q. Now, then, this may not be exactly in cross-examination, although I think it is: In your other examination I asked you if you would furnish a list of the wholesale dealers who testified in this case on the direct, whom you have put under the new contract. Have you such a list?

A. I have, and I will read it into the record.

Q. Will you read that into the record for me—and give the cities as you go along, Mr. Douglas, please.

A. Seven of those witnesses were under this new contract at the time they testified.

Q. Will you name them?

A. Mr. Charles Levy, of Chicago; Mr. W. T. McFadden, of Decatur, Ills.; Mr. J. D. Shively, Lafayette, Ind.; H. R. DeWolf, Indianapolis; M. Schlafman, Haverhill, Mass., and J. Monroe, Hillsdale, Mich.

Q. Since that time, have you put any under the new contract?

A. In addition to those seven, the following have been put under the new contract, subsequent to the

time when they testified: Mrs. E. H. Chatfield, New Britain, Conn.; H. P. Kopplemann, Hartford, Conn.; George Hunt, East Weymouth, Mass.; J. W. Heffernan, Northampton, Mass.; George A. Wood, Taunton, Mass.; R. Woodstock, Springfield, Mass.; A. F. Goldsmith, Salem, Mass.; David Boland, Worcester, Mass.; P. H. Carroll, Chelsea, Mass.; Herman P. Re, Coldwater, Mich.; R. A. Stofflet, Ann Arbor, Mich.; M. Solomon, Detroit, Mich.; J. C. Ramroth, Troy, N. Y.; W. O. Reilly, Kingston, N. Y.; A. M. Pierson, Binghamton, N. Y.; H. Solomon, Cleveland, Ohio, and M. Silverstein, Providence, R. I. That is the list.

Q. Those are the whole lists that you put under contract with the new?

A. Of those who testified before the Commission.

Q. Now, have any of those been removed since they were put under the new contract?

A. Of those whose names I have given?

Q. Yes.

A. If so, it has not come to my attention. I believe not. I do not identify one of which I have knowledge.

Q. Is Goldsmith on that contract—on that list, rather?

A. Yes.

Q. Has he not been removed?

A. No.

Q. Or notified, at least, that he would be?

A. No.

Q. Do you know whether he is handling the "Pictorial Review" or not?

A. I don't know. I very much doubt it.

Q. Why do you doubt it?

A. Because of the fact that he is on that list—on my list here.

Q. The fact that he is on the list. Then your idea about that is that anybody that is put on there—nobody

that is on there continues to handle the "Pictorial Review"?

A. That is my idea of it.

Q. That would be applicable, also, to conditions surrounding the application of the Crowell publication, would it not?

A. Yes.

Q. And any others?

A. Yes; if the man's attitude was an unwillingness to be our agent, as I have described before.

Q. Have you drawn any lines on any other publications in putting in these two new contracts, except the two that I have mentioned?

A. The principle underlying our decision whether or not to put a man under a new contract was whether he wanted to be our agent.

Q. I am asking you whether you had permitted these men to handle other publications besides those issued by the Crowell Company and the Pictorial Review Company.

A. Why, in so far as these men were previously handling other publications——

Q. No.

A. To be real candid, I do not know whether any of these men ever asked us for permission to handle other publications, subsequent to their coming under this contract.

Q. But when the understanding was made—when the contract was made, the understanding was, was it not, that they could not handle the "Pictorial Review" or the Crowell publications?

A. Why, that was the old understanding, under the other contract, and under the new contract.

Q. Now, there was no understanding about other publications?

A. There was to this effect.

Q. What was that?

A. That these people entered into this new agreement with us with the understanding that they should not make any subsequent arrangement to wholesale any other magazine without getting our sanction.

Q. That is what I thought. Now, then, the record discloses that it was brought out on cross-examination all over the country, that in certain cities there was but the one wholesale dealer, and he was your agent.

MR. WELCH: What is that?

MR. DALY: In many instances, that there was one wholesale dealer in magazines, and he was your agent, or he handled magazines and newspapers and your publications, and he was your agent. That is true, is it not, in quite a number of instances?

THE WITNESS: There are some instances of that sort in the record, yes.

By MR. DALY:

Q. Now, would those instances in the record, together with the ones that you have enumerated, make up about a fair list of those that are under the new contract? That is to say, where it appears they are under the new contract, in the testimony?

A. No.

Q. There would be others, would there not?

A. I don't know what you mean by others.

Q. Other wholesale dealers that handle your magazines, and other magazines, or your magazines, other magazines and newspapers.

A. I don't understand you, Mr. Daly.

Q. You do not understand the question?

A. No. In round numbers there are 1390 district agents under the new form now.

Q. Which practically takes in all of your agents, don't it?

A. All but a very small list in the United States.

Q. And, among that number, there are a few hundred, you have testified, that handle newspapers and your publications, or——

A. My testimony was based upon conditions as they prevailed at the time that investigation was made, Mr. Daly.

Q. Yes; I understand that, but I am trying to separate these. You still have, under the new contract, people that handle newspapers and your magazines, don't you?

A. Yes.

Q. And you have others, again, that handle your magazines and other magazines, don't you?

A. Yes.

Q. And you have others that handle your magazines, other magazines, and newspapers?

A. Yes.

Q. Now, then, how many of these did you testify this morning handle other newspapers and your magazines? Four hundred and forty-seven, was it not?

A. Let me get my data, Mr. Daly. I don't like to answer from memory on those figures.

Q. Yes; get your figures on that. Now, was I right in saying 447 you testified to this morning?

A. Four hundred and forty-seven in the United States are now dealing as newspaper wholesalers for other publishers.

Q. And they are under the new contract; is not that correct?

A. No; I didn't say that.

Q. How many of them are under the new contract; do you know?

A. I could not answer you as to that, Mr. Daly.

Q. Four hundred and forty-seven of them are handling other magazines; is that true or not?

A. I said 447 are now dealing as newspaper wholesalers for other publishers.

Q. And they handle your magazines?

A. They handle our magazines.

Q. Now, how many have handled—do these 447 handle other magazines beside yours, and newspapers?

A. I can tell you——

MR. WELCH: No, answer that question.

THE WITNESS: No, they don't, no.

By MR. DALY:

Q. Well, now, give me the number that handle other magazines and your papers. I thought you gave that this morning. You testified this morning that 447 handled other publications.

A. I did not.

MR. WELCH: They handle newspapers wholesale, Mr. Daly.

By MR. DALY:

Q. Have you got the number there of how many handle other magazines? Is that on your list?

MR. WELCH: Here it is. You gave how many of those 1375 are not magazine wholesalers. Deduct that from the whole number, and it gives 366. Deduct that from 1375.

THE WITNESS: Yes. Now, Mr. Daly, if you will restate your question.

By MR. DALY:

Q. How many handle other magazines and your magazines?

A. Three hundred and sixty-six. That is, of those who were investigated.

Q. I am speaking of the ones investigated, of course; and the ones that were not investigated were in the territory where the men went to war; was not that it?

A. Yes, partly. They are not included in this calculation—I beg pardon; they were not included in the testimony in the record.

Q. Now, do you know how many of these are under the new contract?

A. I don't know.

Q. You cannot tell that?

A. I could not give you figures on it.

Q. Now, you do not hesitate, do you, in putting them under a new contract, if they comply with the conditions that you lay down, do you?

A. If they want to be our agents, in the sense of the new contract, we don't hesitate.

Q. If they handle other publications—if they handle newspapers alone and nothing else, you would make them your agents, would you?

A. Speaking of those people who were our agents at the time this proceeding started; that is right.

Q. Would you not do it now? Suppose there was a wholesaler, handling newspapers, would not you take him on?

A. If he was eligible for appointment under the conditions I have stated.

Q. And you do not draw any line, for that matter, where a man handles other magazines, provided he complies with the conditions of your contract?

A. You introduced a bulletin showing that we do.

Q. I am not asking about that. Answer the question.

MR. WELCH: I want to know what the answer is.

THE WITNESS: My answer is that Mr. Daly introduced a bulletin in this record this afternoon, showing what our practice is in that particular. The practice is: if a man is wholesaling other magazines, he is not eligible for our new contract —a man not previously connected.

By MR. DALY:

Q. What was that?

A. I say a man, at the present time wholesaling other magazines as a publisher's representative, is not eligible for appointment to our new contract, under our present practice.

Q. Is that true as to when you took on these general wholesalers you named?

A. It has been true since the date of the bulletin introduced this afternoon.

MR. MILBURN: He said with reference, Mr. Daly, to people who had not previously acted.

By MR. DALY:

Q. No, I am speaking about the man who had previously been selling other magazines.

A. As to those who had been previously acting for us, we have not hesitated to put them under the new form.

Q. Then your new policy is simply where a man is handling other magazines, and you would not take him on; is that correct?

A. You are speaking of people who have not been district agents for us heretofore?

Q. That is correct. You have changed that policy?

A. That is correct.

Q. When did that go into effect?

A. The date of that bulletin.

Q. August 1, 1917?

A. I don't remember the date of the bulletin.

Q. One was dated November and the other was dated August 1st. Did you put on Marie at Minneapolis since?

A. I could not give you the time when he was put on, because I think you did not call him as a witness.

Q. No, I did not call him. You had him.

A. I gathered this data only for your witnesses. That is what you asked for.

Q. I am asking you now about whether you put Marie on, since this time?

A. We put him under the new form of contract, but I could not give you the date.

Q. Do you know whether he was handling other magazines before that time or not?

A. I don't positively know, but I think he was.

Q. Now, then, you have testified that there are about 500 of your district agents that were retail merchants, I think, this morning—506?

A. Five hundred and thirty-six.

Q. Now, I presume that they are people that handle drugs and various things of that character; is that true?

A. Various lines like the witnesses have testified to for us, yes.

Q. And there are 536 of that kind?

A. Five hundred and thirty-six.

MR. WELCH: That is, of men who were not wholesale dealers—who were not wholesaling any other magazines.

MR. DALY: Yes; not wholesaling other magazines.

THE WITNESS: That list does not include wholesalers other than of our magazines.

By MR. DALY:

Q. They are simply retailers of some goods and merchandise, and then you put them under your contract, is that correct?

A. Yes.

Q. And don't wholesale other magazines?

A. No.

Q. Do any of them wholesale newspapers?

A. No.

Q. They are all your district agents, then; is that true?

A. They are all district agents.

Q. Are there more than one in a city, as a rule?

A. In certain cities there are probably several of each.

Q. Now, in what cities would there be several, say?

A. I can only answer, Mr. Daly, from the knowledge of cities that I know have more than one district agent. I have not checked this up to see whether those particular cities have several retail district agents, but I do know, for instance, in Milwaukee, there are several district agents.

Q. Four or five?

A. There are more than that.

Q. I think that is in the record.

A. It is in the record. Whether they are dealers or boys I could not say from memory.

Q. How many would there be outside of the large cities? Can not you give me some estimate as to them?

A. In New York City we have a bunch of district agents. I can not say how many are boys and how many are retailers.

MR. WELCH: What is the question?

MR. DALY: The question is: How many of these 536 men or women——

THE WITNESS: I can not give the answer exactly, the exact number. The greater part of them are outside of the large cities.

Q. As a matter of fact, aren't most of them in small towns?

A. That is a relative term.

Q. Towns of 10,000 or under?

A. I have never made that calculation, but it includes towns of all sizes.

Q. Can you get us up that list?

MR. WELCH: I object to asking Mr. Douglas to keep on furnishing lists of this character. I can not see that it has anything to do with this proceeding.

MR. DALY: As a matter of fact, he has not furnished any of these lists we have been asking for.

MR. WELCH: He has not, because you have just swamped him with requests to furnish lists, and many of them he cannot furnish. If there is a real necessity for this——

MR. DALY: I want to show in this record, Mr. Examiner, and I think counsel on the other side will certainly agree to this without any objection, just about where these agents are. I am not asking him for the names of people; I am protecting him in every way I can. I think we ought to have a right to show how many of these are in big cities, how many are in other cities.

MR. WELCH: I do not think it is fair to ask us to take a list of over 500 names, and try to figure out whether certain of them are in towns of 5,000, 10,000 or 20,000 population. It is an awful burden, and I protest against any such request as that.

MR. DALY: We do not want you. We will take the size of the towns, if you will tell us where these agents are.

MR. WELCH: He cannot tell you without going through an enormous amount of work, and I do not think we ought to be called upon to do it.

MR. DALY: I understand that we have tried to save this respondent a great deal of work, and have. We first asked them for a large lot of information, and we have not pressed them for that.

MR. WELCH: I do not see why we are obliged

to furnish all of the information that may be asked for in the course of a proceeding. We are willing to put witnesses on the stand and give you the information that they have, but no witness can be asked or compelled to go off the stand and make voluminous computations and examinations in private documents.

MR. DALY: That is something else. This man goes on and testified to so many agents of a certain character, and we have a right to show about these agents.

MR. WELCH: He says he does not know—has not the figures.

MR. DALY: I know, but he has the means of getting the figures. Of course, if he won't produce this information, we will have to go about it properly and ask for it—go over these records and ask for it. We are not asking this respondent for the names of these people. We do not care anything about that. We do think that it is a very fair request, and a proper one, to be able to show where these agents are.

MR. WELCH: In what detail, Mr. Daly? I am willing and anxious to give you all we can, without overburdening Mr. Douglas. In what detail? If you want this, and if he can give it without too much bother and taking too much of his time and involving too much expense, we will try to get it for you.

MR. DALY: Cannot he give us the names of the towns, and when they were appointed?

MR. WELCH: The names of over 500 towns, and give you the names of over 500——

MR. DALY: How many agents in some towns? Several in some towns.

MR. WELCH: It involves going through all of his records.

By Mr. Daly:

Q. How much trouble will this be to you?

A. It will be a great burden for me to do any more clerical work on this case.

Q. About this particular thing?

A. This particular thing would take several clerks and several days' time. You ask the dates when they were appointed. You ask for the numbers of them in towns of different sizes. That means taking several different lists in our office and checking them against each other. I do not say we could not do it. On advice of counsel, it could be done.

Mr. Welch: Now, just what is it Mr. Daly wants?

Mr. Daly: I want to find out just where these agents are.

Mr. Welch: You mean the 536?

Mr. Daly: Yes.

Mr. Welch: You want to find out the specific towns they are in?

Mr. Daly: Yes; if he can testify in a general way about it, he does not have to do it.

The Witness: Sure, I can, in a general way, Mr. Daly. The majority of these are in towns where there is only one district agent.

By Mr. Daly:

Q. And what size are the towns, generally?

A. Now, there would be some of all sizes, Mr. Daly.

Q. I know there would, but cannot you give me an estimate?

A. I think Mr. Hyatt, of Duluth, who testified—he is in that class, and they would run—probably the majority of them would be in towns below 25,000.

Q. That is what I wanted.

A. I say probably. I have not made that calculation.

Q. In the smaller towns?

A. But there are some of them in the larger towns.

Q. Several in Chicago, are there not? Two or three in Chicago, are there not?

A. As I said before, we have got a bunch of district agents in Chicago, but I cannot say from memory whether they are boy district agents or retail dealer district agents—the merchant class you are asking for.

MR. WELCH: Now, Mr. Daly, does that satisfy your wants?

MR. DALY: Just a minute.

By MR. DALY:

Q. Now, these agents have all been appointed under the new contract, since November, 1917, is not that true?

A. One thousand three hundred and ninety, approximately, yes.

Q. And the bulk of them would be appointed this year; is not that correct?

A. The greater part of that 1390 have been placed under the new form since the first of the year.

Q. Have these men been acting as agents as a rule for the Curtis Company prior to that time?

A. The great majority of them, yes.

Q. For some period, I presume; is not that true?

A. Yes.

Q. And you simply put them under the new form of contract?

A. Correct.

Q. Now, Mr. Douglas, you have testified that a majority of these men—of these 536 that I am talking about—were put under the new contract. They were put under the new contract, and were men that were formerly under the old contract. Have you testified to that?

A. Not exactly, Mr. Daly

Q. Now, what have you testified about that?

A. I have testified as to the total number of district agents under the new form of contract,

Q. Are you speaking now of the 536 men?

A. No.

Q. I am speaking about that.

A. My testimony as to the 536 applies only to conditions as they existed at the time of this investigation, and includes only those agents in those towns at that time.

Q. Now, what difference would there be in the conditions from that time, and, say, 1917? Would there be any material difference?

A. What difference in what particular?

Q. As to the number and the men; would not the condition be approximtaely the same—maybe a change here and here?

A. I don't think there would be any great difference.

Q. Then I am asking you now about this majority. You said that a majority, I think, were put under the new contract—a majority of these 536 were formerly under the old contract.

A. I was speaking of the whole list, Mr. Daly.

Q. Oh, speaking of the whole list?

A. Yes.

Q. Now, then, I will come down to the 536. About what percentage of them were formerly under the old contract? I am trying to avoid asking for this list.

A. I think a majority of them were under the old contract.

Q. Quite a large percentage, would there not be?

A. I should think so.

Q. Would there be more than half?

A. I should think something more than half.

Q. Two-thirds? Would not that be a fair estimate?

A. It is a sheer guess, Mr. Daly.

Q. I know, but you are very familiar, in your business, in this circulation division—you ought to be able to give that somewhere approximately.

A. You are asking me questions on the basis of a comparison I never made, and I don't like to guess about it; but I should think, and it is a pure guess, that it would be at least 50 to 75 per cent.

Q. Now, then, the others were not under the new contract. They are new men, are they?

MR. WALSH: He says it is a guess.

By MR. DALY:

Q. Just what is it, do you want to state; it is just a guess, or cannot you base your statement on something? You have been in touch with putting in this new contract everywhere, have you not?

A. The element of uncertainty, Mr. Daly, is in the field, as to whether or not such changes as have occurred have been accompanied by appointments of boys, rather than retailers as district agents.

Q. Of those 536, they were all retailers—they were not boys, were they?

A. I know, but there may have been changes since the time the investigation was made.

By MR. WELCH:

Q. Approximately, can you say what percentage of the 536 were under the old contract?

A. I think it is safe to say 50 to 75 per cent. It might be more than that.

By MR. DALY:

Q. It would not be less than 50, would it?

A. I am quite positive not.

Q. And quite possibly 75?

A. It might be 75.

Q. And it might be more?

A. As I say, this is a guess; but my impression is it is somewhere from 50 to 75 per cent.

Q. As a matter of fact, when you were taking over the old organization, you did not have to get very many new men?

A. Not so very many.

MR. WELCH: What do you mean by taking the old organization?

MR. DALY: Going to the old agents and asking them to sign up under the new contract, wherever they will.

THE WITNESS: Bear in mind that I testified before this afternoon that we would not offer that contract to a former agent, if we had reason to believe that he did not want to be our agent, in the sense of that new contract.

By MR. DALY:

Q. I understand that; and you supplement that by saying what?

A. I supplement that by saying, broadly, generally speaking, we did not have to change so many—comparatively speaking.

Q. Can you give me any idea of how many you rejected? That would make it more specific.

A. Something over 100.

Q. That is to say, out of the fifteen hundred and something, you rejected something over a hundred?

A. Something over a hundred.

Q. One hundred and fifty, do you think?

A. It would be less than 200.

Q. Less than 200?

A. I haven't actually counted them; somewhere in between those two figures.

Q. Now, you have testified about your league, and you have spoken about corporals and colonels and sergeants. Now, will you draw the distinction between a master salesman and a colonel or a corporal?

A. We had the civil designations before the war broke out. After the war broke out, we found that the boys were interested in the war, and we gave military appellations in order to appeal to the imagination of the boy.

Q. Prior to that time, instead of colonels and corporals, you had master salesmen and what else?

A. Master salesmen and expert salesmen, and we called the first rank in the league proper, just league members. First, were the civil designations before the war. We used to use them in correspondence with the boys, as the agents testified.

Q. And you have testified that the basis of this whole plan was, down to the final result, the purpose of increasing the circulation of your magazine, have you not?

A. I said that was the only commercial excuse for our expenditures in connection with it.

Q. Then we will use that expression, the only commercial excuse for the changed policy as to naming them corporals and other officers would be——

A. I did not speak in that way. I was speaking of our reasons for organizing the league, the commercial reasons for organizing the league.

Q. Then the basis of the organization, of course, was to increase the circulation of the magazine, was it not?

A. That was our commercial reason. Some of us had reasons other than commercial reasons, Mr. Daly.

Q. If this would not have increased the circulation of your magazines, of course you would not have put in this system; is that not true?

A. I would not have been justified in recommending the expenditure in connection with it, except upon that basis.

Q. And there could be no master salesmen you

have testified about, or expert salesman, except he had increased his sales; is that not true?

A. No; nor could there be except he be a school boy and have a good school record.

Q. But I am asking you the other question.

A. That is correct.

Q. That is the same way with sergeants and colonels and corporals; is not that true? They were promoted to these offices, according to the amount of work that they do; is that it?

A. According to their sales, along with the other requirements.

Q. Now, if a boy is not in school, you do not drop him?

A. He cannot get into the league.

Q. He cannot get into the league, as I understand it. He could, however, sell your magazines?

A. He could sell our magazines, and he would be in some one of the ranks in the army, and after a boy gets to the point where he can sell enough copies to be in the league, we look into the school question, so as not to tempt that boy to neglect his school.

Q. How many boys did you testify are in this league?

A. I am sorry that I have not a good head to remember figures, but I have it here, Mr. Daly.

Q. Just give it to me, then?

A. I testified this morning 15,805 had attained the rank of corporal.

Q. Can you not tell me how many are in the league, without that?

A. Two thousand two hundred and twelve had attained rank in the league proper.

Q. Two thousand two hundred and twelve?

A. Had attained rank in the league proper.

Q. Does that cover the whole period this system has been working or not?

A. That would include those who attained the rank of league member, expert salesmen and master salesmen.

Q. Until now?

A. Up to the time these figures were compiled; yes.

Q. When was that?

A. Some time—well, the last promotions were made this spring—some time this spring.

Q. As a matter of fact, quite a large percentage of that 2200 have been within a short time back—been promoted within the league?

A. Not a large number.

Q. A year or two back—have not most of these taken place within a year or two back?

A. The interest in the plan has been increasing.

Q. Can you not answer the other question? As a matter of fact, have not these 2200 joined the league within a reasonable time back?

A. They have all joined the league since 1915.

Q. I know, since 1914, but how many in the last year, for instance? Can you not give me some estimate of that?

A. Four hundred or 500 the last year.

Q. How many the year before—can you tell me that?

A. At the rate, I think, of somewhere between 400 or 600—within 400 or 600 a year.

Q. Two years back would be somewhere near a thousand?

A. I think that is approximately correct.

Q. Have you the capital stock of your company—I should have gotten this earlier—what is the capitalization of your company?

A. Mr. Examiner, may I ask a question of counsel in this matter?

MR. DALY: Just ask a question if you want to.

I want the capitalization, say, running five years back. You can get that up for me if you do not have it now. However, I think you had better get it in the record.

THE WITNESS: What was your last question?

Q. I wanted the capitalization. I want it in the record, for, say, five years back.

A. I can give you what it is at present. I do not recall offhand the year when the last increase was made.

Q. Give me the present?

A. It is $25,000,000. If it is agreeable to you, I will send you a statement covering the other figures.

Q. Is that common and preferred, all paid up? I wish counsel on the other side would have prepared for the record the capitalization say, for ten years back. You can hand it to us and we will put it in the record later, if you do not have that now.

A. We can get that.

MR. MILBURN: Most of all of the records are filed with the Commission and we cannot get hold of them.

MR. DALY: I did not know that.

By MR. DALY:

Q. I show you a letter from Mr. P. S. Collins, General Manager of the Curtis Publishing Company, addressed to Mr. Bresnahan, of the Every Week Corporation, and replies to the same, and ask you if those were letters which were sent?

MR. WELCH: We have not the slightest objection to these letters, but I should like to reserve the right to see whether Mr. Collins ever received any such letter as this one dated February 11, although I assume he did, from the correspondence, and also to take the matter up with Mr. Collins and, if necessary, call him in connection with it.

MR. DALY: That is all right.

THE WITNESS: I do not recall seeing them.

MR. DALY: Shall I put them in evidence now?

MR. WELCH: Yes.

MR. DALY: I offer these with the understanding they may have the right of checking these up.

EXAMINER MOORE: They will be so admitted and copied into the record.

(The papers referred to were thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 216," and the same is as follows:)

COMMISSION'S EXHIBIT No. 216.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman.

Philip S. Collins,
Circulation Manager

February 8, 1916.

Mr. J. F. Bresnahan,
Every Week Corporation
95 Madison Avenue,
New York

My dear Mr. Bresnahan:

I had planned to be over in New York some day this week and hoped to see you at that time but in arranging to get away next Monday for two or three weeks, find that I can't very well make it.

We have received letters from a number of our sales agents stating that they have been approached with relation to selling Every Week through their boys.

I do not want to seem lacking in courtesy to

a fellow-publisher and, personally, I should be sorry to do anything which would look like a lack of good feeling toward yourself but in justice to ourselves, I feel that we cannot regard a general plan to that end with complacency.

We have built up this boy organization at the expense of a tremendous amount of work and money. We created it and we feel that it belongs to us. A boy can do about so much work. If he sells another publication, he does less work for us and having been engaged to sell our publications, we don't feel that it is fair to us that he should be diverted to another field.

As you know, our agents are under contract not to act for any other periodicals. I feel that we must enforce this stipulation.

I am writing without knowing to what extent proposals have already been made to our agents but in the hope that you will find it unnecessary to have your organization approach them further and because I want to avoid a situation which would be most distasteful to me and possibly of some embarrassment to you.

Very truly yours,
(Signed) P. S. Collins,
THE CURTIS PUBLISHING COMPANY."

"February 11th, 1916.

Mr. Philip S. Collins, Cir. Mgr.
The Curtis Publishing Company,
Philadelphia, Pa.

My dear Mr. Collins:

I have your letter of the 8th.

We have been doing some experimenting along the lines you mention, and at the present

time we are supplying twelve agencies, who, I am told, are also Curtis agents.

I always try to look at a situation from the other fellow's point of view, and I appreciate your attitude. The courtesy and the frankness of your letter is highly appreciated by me personally.

I want a few days to think this matter over, and will be mighty glad to discuss the subject with you on your return, and will meet you in Philadelphia, or over in New York, whichever is most convenient to you.

Hoping that your vacation will do you a lot of good, and with kind, personal regards, I am, as ever,

Yours very sincerely

JFB
MEH"

"The Curtis Publishing Company
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman.
Philip S. Collins
Circulation Manager.

February 15, 1916.

Mr. J. F. Bresnahan,
Business Manager
Every Week Corporation
95 Madison Avenue
New York City

My dear Mr. Bresnahan:

I have your letter of the eleventh.

We have no desire to play "dog in in the manger" and in many instances have co-operated with

our sales agents in securing agencies for newspapers, etc., calculated to increase their profits. Our objection to an Every Week agency is purely because it would mean a dilution of work now done for our publications through a channel which has been built practically entirely at our own expense and which we, therefore, look upon as proprietary.

Of course, it is unnecessary to rehearse the story for you are familiar with all the elements involved, but I believe that you will recognize the fairness of our position and realize that it is the only one which in justice to ourselves we can assume.

As written, I shall be away for several weeks but Mr. M. E. Douglas of our Sales Division is familiar with the matter and is authorized to discuss any phase of it and to take any action necessary.

Sincerely yours,
(Signed) P. S. Collins."

By MR. DALY:

Q. I have here a bulletin, No. 378, which I think was issued by your firm under the subject "Contract Policy based on Judge Hand's decision." I would like to offer that.

MR. WELCH: I think, Mr. Daly, that Judge Hand's decision should go in at the same time.

THE WITNESS: I have not checked over the last page, and it does not look like one of our originals. I do not say there is any question about it. We issued a bulletin corresponding to it.

MR. DALY: Check it over, then.

MR. MILBURN: That is our page.

MR. DALY: We offer that bulletin.

MR. WELCH: There is no objection.

EXAMINER MOORE: Without objection that will be received and copied into the record.

(The bulletin referred to was thereupon received in evidence and marked by the stenographer "Commission's Exhibit No. 217," and same is as follows:)

COMMISSION'S EXHIBIT No. 217.

"THE CURTIS PUBLISHING COMPANY.
Circulation Department,
Sales Division.

July 7, 1917.

Bulletin No. 378. For Miss Egan.

Subject: CONTRACT POLICY BASED ON JUDGE HAND'S DECISION.

The decision upholds the restrictive clause of the contracts now in effect. There is no present need of substituting District or Special Agency contract forms other than those now in effect. You may, therefore, resume using, in the usual way, the same forms now in effect.

Just forget that we even contemplated any different form of contract. Heretofore you have said nothing about it. Hereafter say nothing. 'Least said soonest mended.'

Write no contract with any firm or person wholesaling Group I or Group II publications with or without a Group I or Group II contract. In all new appointments the incoming agent must be one without any promotive, collective or distributive connection with the local management of any Group I or Group II wholesale agents. Complete and total separation of such relations must be maintained. DISTRICT AGENTS 'OFF SIDE' AS TO GROUPS I AND II.

Presumably each one will carefully read the Court's decision, a copy of which was mailed to him on June 29th. Each one reads and under-

stands it and really desires to retain our agency may fairly be expected to get 'on side' without further word from us.

Yet doubtless certain of the few in question will fail to read the decision. Others may not understand its effect and bearing upon their contract and cash security with us. We must tactfully and in friendly fashion bring them to an understanding.

No drastic, ruthless method or policy is desirable or necessary. Our position is generally a most favorable one and we can afford to be magnanimous. A broad policy of liberal and considerate treatment of such District Agents will be wise.

Until further notice, therefore, you will not take the initiative in cross-questioning any such District Agent with respect to his Group I or Group II connections. At the same time, in other ways known to you, you will keep in touch with any such disregard of his obligations to us by any District Agent in your territory, and you will from time to time, advise us of developments, favorable or unfavorable, to full compliance with the restrictive clause.

Anything savoring of threats to force compliance with the restrictive clause must be carefully avoided. Let there be no boasting of winning the decision. Infrequently should it be necessary for you to take the initiative in opening the subject with any District Agent during the next month. We want each such District to have reasonable time to conform to his obligations to us.

On July 30th, send us a letter giving the name of each and every District Agent in your territory believed or known by you to be THEN directly or indirectly interested in wholesaling either Group

I or Group II. Upon receipt of such letter from you, to each we will then mail another copy of Judge Hand's decision and we will then cause each District Agent to understand fully what course is expected of him in compliance with his agreement with us.

After a reasonable time thereafter we will then take such further steps as may be necessary to secure compliance with our reasonable expectations in the matter. Instructions as to such further steps will be given you in personal letters, varying according to the circumstances of the particular case.

Whenever a District Agent asks you as to his obligations under the restrictive clause, inquire whether he read Judge Hand's decision which we sent him. Or give him another copy of the opinion and ask him to read it. Answer him by having him read the decision. The decision leaves little if anything more to be said. If the District Agent still does not understand, have him read the clause in his contract. Have him compare with the Judge's decision. Help him to see how the decision upholds the position we have taken in the matter. On this tactful way, a result favorable for us should be worked out with little or no friction among the District Agents.

It is, of course, needless to suggest that bluster, boasting or inconsiderate threats be avoided. 'Least said soonest mended.'

Of course you will not MODIFY any previous ruling made by us under the restrictive clause. Whenever a District Agent asks about it you may CONFIRM any such previous ruling by showing or quoting the Judge's decision.

And your course should be such as to win for

this policy of ours the wholehearted endorsement and approval of the few District Agents now 'off side' so that those qualified to be retained may continue in our organization.

Right-thinking District Agents will not hold out against you on the ground that advantages for them may be obtained by wholesaling Groups I or II. Loyal District Agents don't believe in treating an honest contract as a 'scrap of paper'."

By MR. DALY:

Q. Mr. Douglas, will you furnish a list of your district agents who wholesale other magazines and yours, and nothing else, with the date of the appointment of each—366 you have testified to—furnish the names and places of these 366 men you have testified about that handle nothing but your magazines and other magazines, and the date of the appointment of each—and Mr. Welch has suggested that they would like to add to that what magazines they handled first.?

A. I will be very glad to do that, if you will not crowd us as to time. This is vacation time with us.

Q. Can you give us that as of the date of this hearing—when the complaint was filed?

A. It would be approximately that.

Q. Would there be any difference between that time and the time of this investigation?

A. I do not think there would be any substantial difference. There might be some little difference, but nothing substantial.

Q. Mr. Douglas, you have testified—it is in the record here and in your cross-examination before I wanted to ask you something further about that—on page 2004 of the record of the hearing in New York, you have testified as to the yearly circulation and yearly sales of "The Saturday Evening Post" and "Journal," for 1909, 1910, 1911, 1912, 1913, 1914,

1915, 1916 and 1917—June 30, 1917. Now, as I understand that, that did not include subscriptions. You so state on page 2005.

A. That is correct.

Q. Now, this morning you have testified as to your circulation and your sales, rather, to the American News Company?

A. Yes, sir.

Q. You do not sell magazines through the American News Company—you sell them to the company?

A. To the American News Company.

Q. Yes. If I were to deduct those figures you gave this morning to the American News Company, I would get your actual sales for these years—would that be correct—newsstand sales; or would that include sales through boys and newsstands and retailers?

A. The figures that I gave here on page 2005 apply only to our sales division output.

MR. WELCH: That is stated on page 2004.

By MR. DALY:

Q. What is the sales division?

MR. WELCH: It is stated on page 2004.

THE WITNESS: The News Company sales are in addition.

MR. DALY: That includes all sales?

THE WITNESS: No; just as testified to.

By MR. DALY:

Q. What is the sales division?

A. That is that division which has charge of the output, through the agents whom we supply. The News Company circulation is in addition to our sales division circulation. That is, if you add——

Q. That is what I wanted to get.

A. If you add the News Company's circulation to our sales division circulation, then you will have our total single copy sales, not including subscriptions.

Q. Would that include sales to boys direct? You testified there were some sales to boys direct.

A. Yes; it would.

Q. Can you tell me how many were sold to the boys?

A. Where accounts are carried in the office, we supply them direct.

MR. WELCH: State exactly what you are giving, Mr. Douglas, before you give it, so you will be perfectly straight.

By MR. DALY:

Q. If you will give me that for those years, I think it will straighten out the record?

A. I cannot give it for those years.

Q. What years can you give it to us for?

A. On the basis of conditions now. We did not keep figures during all those years, so as to give it now.

Q. Can you not give us the later years?

A. I can give you——

Q. What years have you?

A. I will explain.

Q. What are you going to give now?

A. Current data now.

Q. Can you not give us 1916 and 1917?

A. No, sir; I had to go over the accounts and count these to get these figures now, and those old ledgers, of course, we did not have in years gone by. We did not keep the analysis——

Q. You cannot make a full analysis because you have not got the records?

A. We have not kept the figures as you have designated during the past years.

Q. Unless I could have it all I do not think it would answer?

A. This would show our direct sales to boys rather than through the district agents.

Q. That is what I was trying to get at, but I thought you could give it to us for three or four years.

A. I cannot, for the reason we do not keep it in that way.

Q. Give me what you have, then.

A. Our sales direct to boys of the "Post" are about 85,000 weekly; of the "Journal" about 50,000 monthly, and of "Country Gentleman" about 20,000 weekly.

Q. Has that changed materially or not in the last two or three years, you think?

MR. WELCH: Are those monthly or weekly sales?

THE WITNESS: It is averaged weekly on the weeklies, and monthly on the monthlies.

By MR. DALY:

Q. Would that fairly represent conditions two or three years back, do you think? Would there be any great change in it?

A. I think that is pretty close to the average for the "Post" and "Journal" for a number of years back. It is probably a little more on "The Country Gentleman" than a three- or four-year average would show.

MR. WELCH: May I ask a question there while you are going along?

MR. DALY: Yes.

By MR. WELCH:

Q. Are those figures included in any figures you have given, or are they in addition?

A. They are included in the sales division circulation figures given on pages 2004 and 2005 of the record, although I am speaking here now of the calculation on current figures, whereas this represented the

sales circulation during the years mentioned in the record, except the American News Company. We never speak of the American News Company as a sales division circulation.

MR. DALY: On page 2006, Mr. Examiner, I asked Mr. Douglas: "Now, through these magazines that you publish and circulate, there is considerable space, I suppose, in them devoted to advertising; is that correct?" The answer was, "Yes."

"Now, to what extent do the charges for advertising depend upon the circulation," and Mr. Welch made an objection, and the reservation was made by you in ruling on that question, and I want to add to my reasons why that was admissible, this: that it goes to the question of motive.

Mr. Douglas has testified and given reasons why they use this contract. I think we have a right to show that there are other reasons why this same contract is used;, and therefore, as this is the last of Mr. Douglas's testimony, I think it would be well to clear it up now if the Examiner is ready to rule on it.

MR. WELCH: Mr. Examiner, I wish you would read through, if you please, the objections that I made at the time.

EXAMINER MOORE: I have read them through.

MR. WELCH: And I wish also to call your attention to the fact that the foundation that Mr. Daly claimed was laid for that question was the fact that testimony had been given that these copies that were given away to boys, an insignificant number, comparatively, cost more to print and produce than they sold them for.

That question was asked by the Examiner, not by me. It was not brought out by me. I brought

out nothing in this case about the cost of doing business, or the cost or the expense.

EXAMINER MOORE: At what page is the question by the Examiner bringing that out — page 1877?

MR. WELCH: Yes, 1877. You asked: "Are the figures based on the cost to you or what you charge them?"

The witness said: "Based on the retail cost of the magazine, because it costs us more to produce and deliver them than we get for them."

Now, that is made as a basis for bringing into this case something that, so far as I have been able to see, has nothing whatsoever to do with it; the question of the effect. The question as to what extent advertising charges depend upon circulation.

So far as motive goes, as Mr. Daly has added to his reason for this question, I submit that it has not any issue in this case. The charge in this case, as I have stated in this argument in opposition to this question is, that the Curtis Company did something that affected the circulation of another concern. That is the charge—contrary to the law.

Whether that was, so far as the Curtis Company is concerned, to make money through sales or advertising, or anything else, hasn't anything whatever to do with the issue in this case, and I submit, as I very fully stated on the argument that was had before you before, that this question opens up an issue that is not in the case.

There is nothing charged in the complaint about this, and it is a matter that, so far as I can see, is going to produce a large amount of testimony. If I could see any possible relevancy in this case to the question as to the charge for advertis-

ing, and what it has to do with the issue in this case, I would not urge this objection, but I cannot see any relevancy to it, and there certainly isn't anything that Mr. Daly has stated in his argument here that would seem to me to support any such question or any such issue being brought into the case.

He bases his original argument, as I say, on that question of having brought in the cost of these copies. He then speaks of revenues. He speaks of revenues coming into the company. We haven't said anything about revenues coming into this company.

There has been not a word of revenues coming in. He calls moneys that we pay out, revenues. We say we pay out large sums of money. They are not revenues coming into the company.

I submit that that question is incompetent, irrelevant, immaterial, not within any issue in this case, and entirely improper.

EXAMINER MOORE: Do you contend that the Examiner's question on page 1877 would not be a proper foundation for cross-examination on that same point?

MR. WELCH: No; I contend that the point of Mr. Daly that we brought this question into the case and thereby opened the door for his asking such a question as this, would be entirely met by the proposition that the Examiner, in the course of the testimony of a witness, merely asked a question for his information.

We did not bring out any question of expense here.

MR. DALY: Mr. Examiner, it has been clearly shown in this case—and I want to be very brief about this—that these are competitive magazines

that are in question, the "Pictorial Review," "Every Week," "Ladies' Home Journal," "Woman's Home Companion," and these various magazines.

The testimony is clear, and I think admitted in practically every case by the respondent, that these are competing magazines, and these magazines are made up in various ways and used for various purposes, and they are sold to certain customers, and they all appeal to the same class of customers, if your Honor please; and they appeal, not only by editorials and by fiction, but they appeal by advertising as well, and the advertising in these magazines is a part of the competitive condition that surrounds them; and the complaint charges that there is a tendency to monopoly under that particular section of the Clayton Act, and our contention is that it is relevant to show that the circulation of these magazines determines the rates of advertising, and why a competing magazine would want to go to these same class of customers and appeal either by fiction, by editorials or by the advertising, as well as the other reasons that we have already put in the Record.

MR. WELCH: Mr. Examiner, there is not a word in the complaint in this case, or in this case, that advertising constitutes a part of the competitive conditions in this proceeding.

The charge all through this proceeding, in the complaint and by the Commission's witnesses, has been the question of whether the circulation of the "Pictorial Review," "Every Week," and these other magazines, was increased or decreased.

That was all. That is their testimony. They put their case in after weeks and weeks of hearings, and there was not a word in this case about advertising or about the effect of advertising on

circulation, or the effect of circulation on advertising; and now they come in at this late day and try to inject into this case an issue that is absolutely foreign to their pleadings, to their proofs, and I object to it most strenuously.

There is nothing in this case—if the circulation of one of these magazines is in any way affected, it does not make any difference whether the magazine is made up of advertising or not, or whether the advertising charges depend on that circulation.

If the circulation is affected seriously and with intent by this respondent, then they have proved, or claim they have proved, their case. That is what their suit is, but it is not any issue as to whether the circulation would have anything to do with the charges for advertising. It is absolutely foreign to their complaint and to all of the proof that they have put into this case.

I submit that at this late date, to come in and inject an issue of that sort, is entirely improper, and I object to it.

There isn't any proof that advertising may not be entirely independent and separate from circulation. It is a very big question to go into, how far one depends upon another.

Examiner Moore: What is the purpose of it, Mr. Daly? What is the purpose of going into this matter? Give us a little more light on that. What do you propose to show?

Mr. Daly: This complaint charges that the effect of these contracts may be to substantially lessen competition between these magazines. That is what it means, between magazines, selling and distributing them, and there is other testimony which goes on and describes the competitive conditions between these magazines, and it certainly

can be shown how these contracts affect the competition that ought to exist or is existing between these different magazines.

Mr. Douglas has testified about large sums expended, about building up his boy organization, about building up his league, and all that kind of thing, and has further testified that the costs, according to my recollection, of the magazines—that the magazines themselves are sold at less than cost, and we certainly ought to be able to show how these magazines are handled, how they are sold, and show how they are operated, and if it appears that there is a tying up of a condition like this, that is of advertising, then we contend, of course, that is a part of this lessening of competition and shows the tendency to monopoly.

MR. WELCH: Mr. Examiner, we do not claim in this case that the Curtis Publishing Company is operating at a loss. There has not been an item of proof in this case that the Curtis Company was doing business at a loss—putting its magazines out at a loss.

MR. DALY: I did not say that, Mr. Welch.

MR. WELCH: As I said before, your Honor asked during the course of the examination of Mr. Douglas, when I asked him how many copies he gave away to boys to start them in business, as a part of his boy plan. That was the connection, and he gave an insignificant number of "Posts" that he gave away, and he gave the figures to cover what they charged against those magazines, not to show that they were losing money, but to show the general expense of carrying on this wholesale organization.

Your Honor asked the question, incidentally, whether they charged that as the cost or the sales

price, and that is the only thing in this case that would possibly give Mr. Daly any justification for the statement he just made, and I submit that it hasn't anything to do with the issue in the case. It was an incidental statement by a witness who was testifying about an entirely different matter.

So far as the large sums expended are concerned, that hasn't anything to do with the question of whether the advertising rates are larger or are less on account of circulation, and I submit that there is no proof in here as to the advertising rates or the advertising charges with respect to the complainants in this case, the "Pictorial Review" and the Crowell Publishing Company and these other witnesses who are complaining, and it is entirely improper to bring it in at this late date. It is not a part of their charge in the complaint. It is not a part of their proof, no part of any rebuttal testimony.

MR. DALY: This is not brought in as rebuttal, of course. It was brought out on cross-examination—was brought out some time ago in the New York hearing, and is not brought in at this late date.

MR. WELCH: It is brought in at the end of the respondent's case, practically. It was after Mr. Douglas had been on the stand, and after the Commission had finished its case and practically rested its case. It has nothing to do with the issues here, of any sort.

EXAMINER MOORE: As I understand the procedure before the Commission in these matters, it is that the Commission desires the facts in the case. I do not understand that the Commission confines itself to the strict rules of courts, and, inasmuch as this matter was brought up in cross-

examination, I believe that it is proper that it should be admitted.

Therefore, the objection is overruled.

MR. MILBURN: Does that mean we have to go throughout the country and prove the advertising rates of all of the magazines in the country? This, standing alone, without proof of other advertising rates, don't mean anything else.

MR. DALY: We are asking simply about the Curtis Company. If you want to illuminate that, I presume you have a right to.

MR. WELCH: I take an exception, and if this question is permitted to be answered, I reserve the right to open this case on behalf of the respondents and put in such proof as we may see fit, covering the entire advertising question as affecting magazines.

EXAMINER MOORE: The exception is noted.

By MR. DALY:

Q. Well, now, I ask that question, Mr. Douglas.

A. Really, Mr. Daly, I am not competent to answer that question. I am not an advertising man, and I have had no experience in advertising.

Q. What are the facts about that? Don't you know the facts surrounding that circulation and the advertising of your magazine?

A. What do you mean by the facts? What facts?

Q. Costs and prices to advertisers, and how it works with the circulation.

A. I don't know the comparative advertising rates, Mr. Daly.

Q. You don't know the rates, but, as a matter of fact, are not the rates fixed by the size of your circulation?

A. I could not tell you, Mr. Daly. I don't know.

Q. You do not know that?

A. No; that is a very difficult question, Mr. Daly. I am not competent to answer it.

Q. Are not the advertising rates increased according to the circulation? Don't you know that?

A. I can not tell you the relation between the one and the other. I really do not know. I am not competent to answer.

Q. Is it not a fact that a magazine whose circulation is a million copies could demand, and that they do demand, greater rates than magazines with small circulations? Do you know that?

A. The reverse might be true depending upon a number of qualifications.

Q. How about your magazine, then? Do you know now or not whether or not—do you know anything about the rates of advertising?

MR. WELCH: This is all under my objection and exception.

EXAMINER MOORE: The objection is noted.

THE WITNESS: I have from time to time seen our advertising schedule. I never paid enough attention to it to even remember what the schedules are. I could not give them to you now.

By MR. DALY:

Q. In increasing the circulation, you do not keep that in view?

A. That has absolutely nothing to do with my duties.

Q. Nothing to do with your duties?

A. No, sir; I have heard talk about various aspects of this thing, but I don't know anything.

By MR. SPIESS:

Q. Who is the gentleman in the Curtis Company who can give us this information?

A. Mr. William Boyd is our advertising director.

By MR. DALY:

Q. He would be the man that would know, Mr. Douglas?

A. Yes, sir.

MR. DALY: Now, with the exception, Mr. Examiner, of the statement I have asked of counsel on the other side, I am through with Mr. Douglas.

By MR. WELCH:

Q. You testified from about April to about November, 1917, you gave certain instructions to your roadmen not to make changes that you have testified to.

A. Yes, sir.

Q. And you were shown a circular, "Commission's Exhibit No. 215," which is dated November 2, 1917. That was before you made any change in your instructions, was it not—will you look at that?

A. Yes.

Q. That is you changed the instructions for the roadmen which you said you had given them in April, after the bulletin of November 2, 1917, "Commission's Exhibit No. 215," was sent out?

A. Yes, sir.

Q. Now, referring to the bulletin, No. 378, dated July 7, 1917 "Commission's Exhibit No. 217" you referred to your contract policy based on Judge Hand's decision and that circular is taken up with that question almost entirely. What was the decision you were referring to of Judge Hand's in that circular and how did it come about?

MR. DALY: Now, Mr. Examiner, that speaks for itself, and the matter of law, as far as this court is concerned, and it is a record that is open to the Commission and everybody, but I do not think it is proper to admit law books into this case.

MR. WELCH: That is rather an extraordinary objection after the Commission's counsel intro-

duced an exhibit which deals with nothing but the policy of the company, based on Judge Hand's decision, stated in the circular and stated all through it. I submit I am entitled to show what it was and how it arose and what is the meaning of it.

MR. DALY: The meaning can be ascertained any time by referring to the decision. The Commission, as a matter of law, will take judicial notice of it, and putting in decisions of Judges in this case is entirely improper, I submit. They can refer to the opinion wherever they want to. A copy of the opinion in this record is something else, however.

By MR. WELCH:

Q. How did Judge Hand's decision come about, Mr. Douglas—in what proceeding was Judge Hand's decision, to which this circular refers?

A. Judge Hand's decision was rendered after hearings in the United States District Court upon the application by the "Pictorial Review" for an injunction to restrain us from enforcing our former contract with respect to our District Agents, and Judge Hand's decision was a refusal to issue such an injunction.

Q. Of course that decision was prior to the date of this circular, which is July 7, 1917?

A. Yes.

Q. Was a copy of Judge Hand's opinion sent out to the various district agents?

A. It was.

Q. Are those the district agents to which the instructions referred to in this bulletin, relate?

A. Yes, sir.

Q. Is that a copy of the decision sent out to the district agents to which this bulletin refers (exhibiting paper to witness)?

A. It was.

MR. WELCH: I offer this in evidence.

MR. DALY: No objection.

EXAMINER MOORE: That is accepted in evidence without objection.

(The opinion referred to was received in evidence and marked by the stenographer, "Respondents' Exhibit No. 46," and the same is attached here and made a part of this record.)

By MR. WELCH:

Q. Now in this bulletin, No. 378, "Commission's Exhibit No. 217," your company, Mr. Douglas, stated——

"Until further notice, therefore, you will not take the initiative in cross-questioning any such district agent with respect to his Group I or Group II connections. At the same time, in other ways known to you, you will keep in touch with any such disregard of his obligations to us by any District Agent in your territory and you will from time to time, advise us of developments, favorable or unfavorable, to full compliance with the restrictive clause."

By that you did not intend, in any way, to enforce compliance with clause fifteen?

A. No; the purpose was merely for the roadmen to keep us informed of what our agents were doing. They were forbidden to talk about it with the district agents.

Q. But you wanted to be informed as to what the situation was?

A. Yes.

Q. Mr. Daly asked you a question in respect to your attitude towards the "Pictorial Review" and the Crowell publications and other publications, when you changed an agent from one of the old forms of contract to the new forms, and asked if they were not instructed not to take "Pictorial Review" and Crowell

publications on. I ask you whether there were any instructions given to your agents at any time of any kind, in making the contract with them, other than they should apply to the company for permission before taking on any other magazines?

A. I know of no such instructions.

Q. And that applied as well to "Pictorial Review" and Crowell publications, as well as to all other magazines did it not?

A. Yes sir; and I would really like to qualify that. I am speaking with reference to that interval between April and November.

Q. That was the interval you were speaking about?

A. Yes, sir.

Q. How about the time after that when you changed from one of the old forms of contract to the new form of contract?

A. After November after we began to put in the new form of contract the roadmen were told then that they could answer any questions about the Crowell and "Pictorial" publications, but as to the other publications the district agents should write to us and apply for permission. The roadmen at no time had authority to give sanction as to wholesaling any magazines.

Q. You testified very clearly that after a certain date you adopted the policy of not appointing, as one of your district agents, any man who was handling wholesale other magazines.

A. Yes.

Q. And I think there was an exception to that in the case of St. Marie, was there not?

A. Yes, sir.

Q. Is that the only exception you know of?

A. That is the only exception that I can recall.

Mr. Spiess: I do not think Mr. Douglas said he made an exception. He said he did not know when he was put under the contract.

MR. WELCH: Mr. Daly asked him if he did not know he handled other publications before he was appointed, and he said yes.

MR. SPIESS: There was no exception made about Napoleon St. Marie. He asked about Marie in Minneapolis.

MR. DALY: That was the man I was talking about. I first said Indianapolis and then changed to Minneapolis.

MR. SPIESS: Napoleon St. Marie is at St. Paul.

THE WITNESS: I can answer as to Napoleon St. Marie, I think.

By MR. WELCH:

Q. State the facts as to that appointment of Mr. Joseph St. Marie as your district agent?

A. As to Mr. Joseph St. Marie, he was given our agency after we had decided that we could not tolerate his predecessor any longer, and it was done, if I remember correctly, as an exception to that particular bulletin you have mentioned, and for the reason that he had been previously promised the refusal of that agency, if there should be a vacancy.

Q. I think you testified in this case he had been promised the refusal some time in 1910.

A. Yes sir; and also subsequently confirmed by Mr. Nelson and several of our men.

Q. Do you know at what date he was appointed agent?

A. I think I can give you the date by referring to my record.

Q. I think it was in December, 1917, but let us have the date exactly.

A. December and November, 1917, were the first issues of the "Journal."

Q. At that time he was wholesaling other magazines, was he not, or do you know?

A. Yes; I think he was.

Q. And in his case, and in any case where you have appointed an agent that wholesales other magazines, what policy have you adopted with respect to your contract?

MR. DALY: Is this the new contract?

MR. WELCH: The new and old. He was the only one appointed under the new contract.

THE WITNESS: Since the date of that bulletin, I believe that Joseph St. Marie was the only district agent who has been accepted as such at a time when he was handling magazines other than ours at wholesale. I am not speaking of the reappointment, now, of old agents under the new contract, but of new men under the new contract.

MR. DALY: I understand that.

By MR. WELCH:

Q. Mr. Douglas, what was the date of the commencement of the League of Curtis Salesmen? I think you have not given the date yet.

A. 1914.

Q. And the prior organizations relating to boys were all merged into that, were they not?

A. Yes; that was the result of our combination of all of our plans with boys, and it was hoped that it would enable us to discontinue the national contests. That is the reason we wanted to make the league a success.

Q. Now, you have given certain figures covering the number of direct sales to boys. Those were sales to boys direct from the home office?

A. The home office and through the branch offices.

Q. But not through the district agents?

A. No, sir.

Q. Mr. Douglas, are the publications of the Curtis Publishing Company, "The Ladies' Home Journal,"

"The Saturday Evening Post" and "The Country Gentleman," all copyrighted in accordance with the laws of the United States?

A. They are.

Q. I shall produce also any copyright records you want unless you want to admit they are all copyrighted. I do not know how good Mr. Douglas's proof would be of a copyright in a court proceeding.

MR. DALY: I do not suppose it would be good.

MR. WELCH: Do you wish any further proof?

MR. DALY: I do not see how that is relevant. I object to the admission of that. I do not see how the fact, if these papers were all copyrighted, how it would have any bearing upon any issue in this case.

MR. WELCH: I think we are entitled, Mr. Examiner, to show all these statements are all properly copyrighted under the laws of the United States, in view of the law as it stands today on copyrights and patent rights.

EXAMINER MOORE: Objection overruled.

MR. MILBURN: Does the answer stand now?

THE WITNESS: They are copyrighted.

By MR. WELCH:

Q. Now, Mr. Douglas, you were asked over my objection a question relating to the rates for advertising as affected by circulation, and you said that you did not have sufficient knowledge of the general subject to answer the question.

Will you state what general considerations there are affecting the circulation of magazines, and the rates for advertising?

A. Will you repeat that question?

Q. I want you to state what elements there are which, in your opinion, enter into the question of the rates for advertising, which prompt you to say that

you are not in a position to answer that question.

A. Because advertising experts themselves disagree as to the extent to which volume of circulation affects advertising. You see, in magazines, trade magazines, announcements that quality circulation is the thing that counts.

You also see in the magazines, over publishers' signatures, announcements that distribution counts. For me to answer as to the extent to which volume of circulation controls, when the experts themselves disagree on it, when I do not know by my own experience anything about it, would be ridiculous, it seems to me. I am not an advertising expert, and don't claim to be.

MR. WELCH: That is all, Mr. Douglas.

By MR. DALY:

Q. You stated how experts disagreed. Of course, that was not what I want. I want to know what counted with your company.

A. You asked me to what extent.

Q. Well, what counts with your company, and how far does advertising count with your company, if at all?

A. Mr. Daly, the only thing in this case I can see that has any relation whatever to your question, is this: I know that continuity of purchases by the same reader, week after week, from a given source of supply is, by our people, regarded as of importance.

It is for that reason that I have made strenuous efforts, over a good many years, to train these boys to get regular customers and to serve regular customers. I know that our people consider continuity of purchases by readers, subscribers or single copy purchasers—continuity of receipt of the publication, issue after issue, as of large importance; and it is for that reason that we have emphasized the idea of the boys having regular customers in our sales plans.

So far as the matter of motive you refer to, I have never heard it discussed in Mr. Boyd's presence.

Q. I did not ask you about the motive. You have practically answered the question I wanted answered—that the more substantial the circulation is, as well as the large circulation, the better it is for advertisers; is it not? That is something you know?

A. You see, that depends on so many factors, Mr. Daly, that I am not competent to answer that question.

By Mr. Welch:

Q. What are the factors?

A. The factors, as I hear them discussed, and as I see it in the house organs, are the—I don't know; they don't agree themselves—not only the more volume of circulation, but the quality of the distribution—elements of that sort.

By Mr. Daly:

Q. I do not mean exactly the fractional expense—that was not what I was trying to get at; but, as a matter of fact, when you go after your advertisers, you would present your circulation, would you not? If you have a million and a half circulation—whatever it is, it is substantial, it is steady, it is not large today and smaller tomorrow—that would all be presented, in obtaining advertising?

A. I have no doubt that that is done.

Q. And, if the circulation increased largely, the rates would increase, would they not—the rates for advertising?

A. I do not know that that follows.

Q. Substantially increase?

A. I do not know that that necessarily follows. I have seen "The Saturday Evening Post" circulation running in very large numbers—increases—without any corresponding increases in advertising rates.

Q. You have seen that in your advertising?

A. I understand that has been the case; yes, sir.

Q. Over a period of years? Would that hold out over a period of years?

A. I think I am safe in saying that there have been intervals of several years, with large increases by the "Post," and no increase in the advertising rates. I say again, now, I am speaking without being prepared to answer this—without expecting to be called upon to answer it, and without definite knowledge.

Q. I had no idea you would not be able to answer it. I supposed you would. Now, do you know whether or not, within the last eighteen months, your company has based its advertising in the rates—the rates are based on an increase of 100,000 for twelve months, or some like period?

MR. WELCH: This is all under my same objection and exception, Mr. Examiner.

EXAMINER MOORE: Very well.

MR. DALY: Mr. Welch himself brought this out.

MR. WELCH: I did not bring it out, Mr. Examiner. I cross-examined the witness on something I had objected to. If I object to a question, it does not mean I cannot cross-examine him on the same proposition, under any rules of evidence I ever heard of.

By MR. DALY:

Q. Do you know that, Mr. Douglas?

A. I do not.

Q. Or any other number—I spoke of 100,000?

A. I do not, Mr. Daly; no, sir. I did not attend the particular advertising conference, and I don't know anything about it.

By EXAMINER MOORE:

Q. Don't you know that, as your circulation has increased, that your advertising rates have increased?

A. That has been true sometimes, and sometimes it has not been true.

Q. Over a course of four or five years? How about that? Starting in 1912 or 1914, and coming up to the present time?

A. I have not had this thing under my observation. I have not followed it. It has had nothing to do with my action in regard to these agents. I have not come here prepared to testify about it. It is not within my knowledge.

Q. Is it not a matter of common knowledge among all of the employees of the Curtis Publishing Company?

A. It is also a matter of common knowledge that there have been large increases in our circulation, in times when there have been no increases in advertising rates. It is not fair to attribute it as a motive in this proceeding, regarding our action with these contracts. It has nothing to do with it.

By Mr. Welch:

Q. You are in charge of the sales division of the Curtis Publishing Company, are you not?

A. I am.

Q. That attends to the sale and distribution of the Curtis publications?

A. Yes, sir.

Q. It has no connection whatsoever with the advertising department?

A. No, sir.

Q. You have no conferences with the advertising department, or talk with them with respect to the bearing of advertising and circulation, have you?

A. Not that would qualify me to answer to the extent to which circulation affects advertising rates.

Q. And the circulation is in the hands of entirely different men?

A. Yes.

Q. You have specialists employed for that purpose by your company?

A. Yes.

Q. That is a separate department?

A. Yes; to which I am in no way responsible.

Q. Your actions under this contract, and your distribution of the magazines is entirely independent of any question of advertising, is it not?

A. Yes, sir.

By Mr. Daly:

Q. Now, these conferences; just what are they?

A. These conferences?

Q. That you and Mr. Welch referred to You suggested—at least by your answer—that there were conferences held in which advertising men took part?

A. There are conferences held in our offices, amongst our advertising men. I know that to be true; yes.

Q. With you, and you present?

A. I have been called down once or twice and asked certain questions. I remember our folks were curious to know, at one time, how much circulation we had in Iowa, and we went down to tell them about it.

Q. Were they inquiring that because they wanted to know about advertising, do you know?

A. I suppose as a matter of general information bearing upon—this applied to "The Country Gentleman," particularly. There are a good many farmers in Iowa, you know. I suppose they wanted to be in position to talk to advertisers about how much circulation "The Country Gentleman" had in Iowa.

Q. How often would that occur, a conference of that kind?

A. I don't believe I have sat in such conferences twelve times in the eighteen years I have been with the company.

Q. When was the last time—about when? I don't mean the exact date.

A. The last one was some time last winter, at the time of the transportation tie-up, when our advertising friends heard a criticism that no copies of our publication were in Chicago and did not arrive until after the day of issue, and these gentlemen wanted to know why we did not have a distribution in Chicago.

The United States Government had taken over the transportation systems, and in spite of every effort on the part of the Government and on our part, we had been unable to get the copies in there on time.

That was the sole and only purpose of that discussion.

Q. About the time of distribution. When was there another one, can you remember that, prior to that?

A. I think the one before that had to do with "The Country Gentleman" in Iowa.

Q. The one before that? Do you remember how far back was that?

A. Before that? This was probably about two years ago. There was a conference with a view to finding out if we could get a larger "Country Gentleman" circulation in the corn belt, including not only Iowa, but the states in the agricultural field which are commonly referred to as the corn belt.

Q. Now, was not that because of advertising, that you wanted to get this increased circulation—these advertising men were conferring with you about it?

A. I think that the advertising—the advertisers——

Q. Did they not state at the time—did not the advertising men state to you, at the time, why they wanted it?

A. They might have done so, but it did not im-

press itself particularly in my mind; but I think that the situation was this: the advertisers were desirous—were asking the amount of our "Country Gentleman" circulation in the corn belt, and, as a result of that, they requested, I think, our advertising department—I think our advertising department was desirous of having more circulation in the corn belt, in order to keep those advertisers happy, I suppose, and we were discussing the desirability of getting more circulation in that territory.

Q. As a matter of fact, large advertisers keep in pretty close touch with the circulation and distribution, don't they?

A. They keep in touch with the distribution, and with the circulation—with the quality.

Q. Did you have any conference—you have specified some number, about a dozen in the eighteen years of the time you were there?

A. These conferences have always been with a view to enabling the advertising department to find out what we can do in a circulation way.

Q. To increase your circulation?

A. There have not been discussions of the effect of circulation on advertising.

Q. I understand that, but they were for the purpose of finding out how you could increase the circulation, were they not?

A. No; sometimes for the purpose of finding out what circulation we had, and where it was.

Q. And for the reason, was it not, that advertisers would want to know about it?

A. Advertisers would be asking. I recall, for instance, inquiries, upon one occasion, about our circulation in towns of a certain size. I think that was one occasion when we had some discussion.

Q. About some towns?

A. Circulation we had in towns of some size—"Country Gentleman," that happened to be.

Q. And advertisers were inquiring about that in those towns; is that true?

A. I think so; yes.

Q. There is one more question Mr. Welch spoke to you of in his examination, and that was about an organization that was changed into the Curtis League. What was the organization that was changed into the Curtis League? Did he properly describe that when he said "organization"?

MR. WELCH: I said all prior organizations among the boys.

THE WITNESS: We had a lot of elaborate machinery for handling national contests for boys, and we wished to get away from that, if possible, and we worked out the league as a plan which we hoped would enable us to dispense with the national contest—competitive contests.

By MR. DALY:

Q. These competitive contests, in which you offered prizes for increased circulation?

A. Yes; we wanted to get a method, other than a competitive one, for the boys.

MR. DALY: That is all.

MR. WELCH: That is all, Mr. Douglas.

EXAMINER MOORE: We will take a recess until tomorrow morning at 10.30.

(Whereupon, at 5.25 o'clock P. M., an adjournment was taken until tomorrow, Tuesday, July 2, 1918, at 10.30 o'clock A. M.)

BEFORE THE FEDERAL TRADE COMMISSION.

Federal Trade Commission
v.
Curtis Publishing Company.
} Docket No. 15.

New York City, July 2, 1918.

The hearing was resumed, at Court Room 2, Woolworth Building, at 10.30 o'clock A. M., pursuant to adjournment.

Before:

CHARLES S. MOORE, Examiner.

Present:

MR. JOHN WALSH, Chief Counsel for the Commission, and

MR. A. M. DALY, and

MR. L. A. SPIESS, on behalf of the Commission.

Appearances:

MR. JOSEPH W. WELCH, and

MR. JOHN MILBURN, JR., on behalf of the Curtis Publishing Company.

PROCEEDINGS.

EXAMINER MOORE: Before proceeding further with the examination of witnesses, I wish to rule upon a reservation made on page 4586 of the record. Mr. Daly offered a letter from Henry Solomon & Company, addressed to Mr. Douglas, dated March 28th, 1917, referring to a convention which was held in Chicago of the Wholesale Newsdealers. Counsel for respondents objected to the admissibility of this letter and the Examiner reserved ruling on same.

The objection is sustained.

CHARLES H. SMITH, was recalled as a witness on behalf of the respondent, and, having been previously sworn, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. Smith, you have previously testified in this proceeding, have you not?

A. Yes, sir.

Q. You are the manager of the news stand department of "Collier's Weekly"?

A. Yes, sir.

Q. As part of your duties, Mr. Smith, you keep in touch pretty closely with the wholesale distributors of magazines throughout the country that handle "Collier's Weekly"—is that true?

A. Yes, sir.

Q. In most cases where your magazine is distributed by a distributor of magazines who is under contract with the Curtis Publishing Company, you have not met with any objection on their part—entirely so?

A. No, sir.

Q. By that I mean, you have not, in all cases. I show you part of "Commission's Exhibit No. 194," which is Bulletin No. 265, sent out by the Curtis Publishing Company to its roadmen, and ask you if you are familiar with that situation with reference to "Collier's Weekly"?

A. I remember seeing something like that; yes.

Q. Now, the copy of this exhibit which you have just read is a notice to wholesalers under contract with the Curtis Publishing Company that they must not distribute "Collier's Weekly" to other than newsdealers—is not that so?

A. Yes, sir.

Q. Have you a wholesaler in Denver, Colorado, by the name of Sanborn?

A. Yes, sir.

Q. Does he distribute "Collier's Weekly" to boys, — do you know?

A. To some extent he is now; yes.

Q. Are you helping him in the way of prize offers, to circulate "Collier's Weekly" to boys?

A. I have put up something in the way of prizes.

Q. Have you done this generally through the country where your magazines are being distributed by wholesalers who are under contract with the Curtis Publishing Company?

A. No, sir.

Q. Will you state why you have not done so?

A. In the first place it would be too expensive and secondly, I dare say, a majority of the wholesalers who are acting as Curtis agents would not look with favor upon it.

Q. Why would not the Curtis agents, as far as you know, look with favor upon distributing "Collier's Weekly" through boys?

A. Well, I do not think they are permitted to do that. That letter would indicate that. I think it is also in their contract.

Q. I now show you a circular of Collier & Sons, dated June 26th, 1917, and ask you if that was sent out through your repartment?

A. It looks like one of ours; yes.

Mr. Milburn: I object to that on the ground it is incompetent, irrelevant and immaterial to this controversy. It is a communication sent out by the Collier's publishing house, not under investigation here, to their own agents, and I do not see how it is material to this issue.

Mr. Spiess: It is a circular sent out by "Collier's Weekly" in reference to boys, and it is very pertinent to the issue raised by the Curtis Publishing Company that the boy proposition is a

great part of their organization, and that some of the competitors of the Curtis Publishing Company have been attempting to get this organization which they have built up at great expense, and we want to show that other publishers of magazines have attempted and are attempting to use boys.

MR. MILBURN: I do not claim we have the only right to use boys. Any publisher can use boys that gets the boys together and supports them.

MR. SPIESS: The contract says these wholesalers who distribute magazines cannot use boys.

EXAMINER MOORE: I should like to hear from Mr. Daly on that.

MR. DALY: I cannot see, Mr. Examiner, why that is not perfectly proper. This whole method of distribution by boys has been talked about by both sides in all these hearings, and what the "Pictorial Review" is doing about boys would be perfectly admissible, and what "Collier's" is doing about boys, soliciting Curtis boys and any other boys, and their methods of distribution, and the way they are trying to distribute their papers, etc. I do not see why it is not perfectly admissible.

MR. MILBURN: I do not see how it can be relevant in any way, or material. We do not claim "Collier's" has not the right to distribute magazines through boys. We do not claim that for any other magazine on earth. We say they cannot use our organization, and when our district agent is under contract with us, prohibiting him from distributing "Collier's" through boys, that they cannot go to him and induce him, or at least he can distribute their magazines through boys if he wants to, but he must cease his association with the Curtis Publishing Company. Now, whether the distribution of magazines all over the country is a point here in issue, I cannot see. I think that is for your Honor to say.

EXAMINER MOORE: I do not believe this is admissible and the objection is sustained.

MR. SPIESS: I note an exception to the Examiner's ruling.

By MR. SPIESS:

Q. Mr. Smith, how long have you been trying to inaugurate the boy system through Mr. Sanborn, of Denver, Colorado?

A. I should say something like a year—perhaps not that long. I do not recall exactly, Mr. Spiess.

Q. Now, in any other part of the country, have you attempted to circulate "Collier's Weekly" through boys?

MR. MILBURN: I think I ought to renew my objection to that whole line of examination—how "Collier's" is circulated. Have we got to go through the west again and prove the circulation of "Collier's Weekly" as we have proven our own? The fact that he has had dealings with Sanborn, an old agent, I make no objection to at all. If there is any controversy about that, we, of course, are ready to meet that. Are we going to take up "Collier's" throughout all the cities of the east, west, north and south, and go around—it would open this up, with the possibility of all kinds of proof, and I do not think it is relevant to the operation of the Curtis contract.

MR. SPIESS: I want to find out whether the agents he has tried to solicit for boys are Curtis agents.

MR. MILBURN: Well, ask him if they are Curtis agents then.

MR. DALY: Further along that line, I think learned counsel brought this up himself. In his line of examination, he has asked if any other organization had given prizes to boys, and it is right along that line, and it ought to be perfectly proper

for us to show there was another competitior trying to use the same methods. It seems to me that would be perfectly proper and that we could do that.

MR. SPIESS: Further, in Exhibit 194 of the Commission, Bulletin No. 265, they have instructed their roadmen that wherever they found a Curtis representative distributing "Collier's Weekly" through boys, he must tell him—it says "boys." It does not say "Curtis boys."

MR. MILBURN: There is no doubt in the world it means boys under the Curtis contract.

MR. SPIESS: From the testimony in this case, it would seem to mean all boys.

MR. MILBURN: You know we do not make any claim to control the boy product of America.

MR. SPIESS: The testimony shows one boy testified that he learned he was a Curtis boy when he went to buy some publications, and the wholesaler told him he was a Curtis boy, and that he had so reported him; also that newsboys on the street were reported as Curtis boys.

MR. MILBURN: Is it your contention, Mr. Spiess, that we tried to control the boy product of America? If it is, just state it on the record, and I will deny it.

MR. SPIESS: We do not want to state anything except what the evidence shows, but we have letters where you have written to wholesalers asking them if they sold "Collier's Weekly" or anything else through boys. You do not say Curtis boys, but just boys, and I submit, Mr. Examiner, this testimony is absolutely pertinent to the issues, to show that this clause in their contract shuts off these publishers from distributing their magazines to the full extent, because they cannot use these boys.

3317

MR. MILBURN: May I just ask one question?

MR. SPIESS: Certainly.

By MR. MILBURN:

Q. Can anybody suggest that our contract with the Curtis agents as to the distribution of Curtis magazines through dealers and through boys, can have any possible conceivable effect upon Mr. Smith's contract with the "Collier's" people, with a man who was not a Curtis agent to distribute "Collier's" through any boy he may select? It cannot be conceived that it will affect this situation. Where Mr. Smith has come in contact with Curtis agents, and therefore with the representatives of the Curtis Publishing Company, I conceive that is material and raise no objection to it, but as to going into the entire distribution of a publication I think——

MR. SPIESS: The testimony is all about Mr. Sanborn, so far.

MR. DALY: I do not know that the record shows he is a Curtis agent, but he was.

MR. MILBURN: I make no denial of the fact that he was a Curtis agent.

MR. DALY: This testimony is to be confined to that particular man.

MR. MILBURN: The question is general.

EXAMINER MOORE: Yes, the question is general.

MR. MILBURN: I make no objection where they come in contact with a Curtis agent.

By MR. SPIESS:

Q. Have you, in any other instance, Mr. Smith, endeavored to get a wholesale distributor of magazines who is under the Curtis contract, to sell "Collier's Weekly" through boys?

A. I do not recall any specific case now, but I dare say I have suggested that at different times.

MR. MILBURN: Do you know—can you testify

under oath you have tried to get Curtis agents to sell "Collier's" through boys?

THE WITNESS: In York, Pennsylvania, at one time I wrote to an agent, or at least it came up through the parents of a boy who wanted to sell "Collier's," and the agent would not sell the boy "Collier's" because he was a Curtis boy. He was selling Curtis publications, and the matter was finally quashed and it came to no head at all.

MR. MILBURN: May I just, for the purpose of clearing up the record, your Honor, say one thing? There are one or two questions as to general matters, outside of Collier's connection with Curtis agents. Do I understand, pursuant to my objection, those answers will be stricken out?

EXAMINER MOORE: The answers were not given.

MR. MILBURN: In the event that an answer was given, then may the answer be stricken out?

EXAMINER MOORE: I understood Mr. Spiess was——

MR. MILBURN: My recollection was, there was a general answer, which should not be in. Now, the inquiry is confined to the Curtis agents. If it is, may I have this stricken out?

EXAMINER MOORE: In other words, you want a ruling on the objection?

MR. MILBURN: Yes.

EXAMINER MOORE: I think the question is too general. I think you ought to confine it to the specific connection with the Curtis Company or its agents.

By MR. SPIESS:

Q. Do you know of any other instance where you attempted to get a wholesaler under contract with the Curtis Company, to distribute "Collier's Weekly" through boys?

A. I don't recall any just now.

Q. How about Scott Kraus, of Columbus, Ohio?

A. I don't recall it. I may have suggested it to Mr. Kraus, but I don't remember any incident.

Q. I now show you a letter, dated April 6, 1918, from Wilmer Poley, addressed to P. F. Collier & Son; a letter dated April 25, 1918, addressed to C. H. Smith, from Roscoe Peacock, of the Curtis Publishing Company; a letter of April 26, 1918, from Roscoe Peacock, addressed to C. H. Smith, and I ask you if you received that correspondence?

EXAMINER MOORE: Do you offer them collectively or separately?

MR. SPIESS: I am not offering them at all, yet; just asking him if he received them.

THE WITNESS: Yes, sir.

MR. SPIESS: I offer these in evidence.

MR. MILBURN: No objection to those.

EXAMINER MOORE: The letters will be received in evidence, without objection.

MR. SPIESS: Copy these in the record.

(The letters referred to were thereupon received in evidence, marked by the stenographer "Commission's Exhibits Nos. 218, 219 and 220," and are as follows):

COMMISSION'S EXHIBIT No. 218.

"POLEY'S DRUG STORE
Wilmer M. Poley & H. H. Elhart
Prescription Druggist and
Stationer

All Mail Orders Receive
Prompt and Careful Attention

Ashland, Oregon, April 6th, '18.

P. F. Collier & Son.
New York City.
Gentlemen:

In placing your agency with us 2/23/18, your

representative assured our Mr. Elhart that The Curtis Publishing Co. would not object to our wholesaling your publication.

We have this morning received advice from the above publishing Co. however, that they cannot sanction our wholesaling "The publication mentioned" while we are engaged as their District Agent.

With regret, therefore, we are obliged to discontinue the wholesaling of your publication.

Kindly send us statement of our account, upon receipt of which we will return unsold copies and remit to balance.

Yours truly,

POLEY'S DRUG STORE,

per W. M. Poley."

(Rubber stamp):

"Change 5883, 7 to O, No. 5884, 3 to O. Issue 5/4/18."

(Notation in ink):

"This Agent had one sub dealer in Ashland, Ore. This was also cancelled. The agent had a weekly supply of 3. Bernard."

COMMISSION'S EXHIBIT No. 219.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Roscoe Peacock
Circulation Manager

April 25, 1918.

Mr. C. H. Smith
c/o Collier's
416 West 13th Street
New York City
Dear Mr. Smith:

I am sorry there has been so long a delay in attending to your letter of the 12th and later

letter of the 23rd which I find on my return this morning.

Neither Mr. Douglas nor I know anything about this matter. It appears to have been handled entirely by Mr. Blaska, the Manager of our Sales Branch Office in San Francisco, and Mr. Douglas is today writing him about it. It is only after hearing from him that we can attempt to confirm or deny the correctness of Mr. Poley's letter to you of the 6th.

Very truly yours,
ROSCOE PEACOCK."

COMMISSION'S EXHIBIT No. 220.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman

Roscoe Peacock
Circulation Manager

April 26, 1918.

Mr. C. H. Smith
c/o Collier's Weekly
416 West 13th Street
New York City

Dear Sir:

Since writing you yesterday about the case of District Agent W. M. Poley of Ashland, Oregon, the Sales Division has located some correspondence with Mr. Blaska on the subject.

At the present time our attitude in regard to granting or withholding sanction for our District agents to wholesale Collier's depends largely on local conditions, and it is understood between Mr.

Blaska and the Home Office that he will use his judgment as to whether our interest will suffer in any way. In this case it is clear that Mr. Blaska feels that our interest would suffer and accordingly he declined to grant sanction to Mr. Poley. We see no reason to question Mr. Blaska's action in the matter.

Very truly yours,

ROSCOE PEACOCK."

MR. SPIESS: That is all.

CROSS-EXAMINATION.

By MR. MILBURN:

Q. Mr. Smith, how long have you been with "Collier's"?

A. About seventeen and one-half years.

Q. In the relations between the Curtis Company and the Collier Company during that period, they have been amicable, have they not?

A. Rather so, yes.

Q. And some of your papers are distributed through men who are agents for the Curtis Company?

A. Yes, sir.

Q. And you have never made a concerted effort with those men to get them to use the boys who distribute the Curtis papers, in the distribution of your papers, have you?

A. Never.

Q. Their distribution has been practically confined to the news dealer distribution; is that correct?

A. Yes, sir.

Q. You knew that Mr. Sanborn, of Denver, was at one time a Curtis agent?

A. Yes, sir.

Q. And you knew that his agency was discontinued?

A. Yes, sir.

Q. It is since that time that you have been making special efforts at distribution with him?

A. Yes, sir.

MR. MILBURN: That is all.

RE-DIRECT EXAMINATION.

BY MR. SPIESS:

Q. Do you know when Mr. Sanborn's contract with the Curtis Company was cancelled?

A. I think it is over a year ago—a little over a year ago.

Q. A little over a year ago?

A. I think so, if I am not mistaken.

Q. Were you not making efforts to distribute "Collier's" through boys, with Sanborn, while he was under the Curtis contract? You knew he was under contract with the Curtis Company, did you not, while he was selling "Collier's" through boys?

A. I did not think he was at the time he took it up with us, no.

Q. You are not certain, though, are you?

A. I am not absolutely certain, no; but I thought that was the reason for him taking on the prize offer.

Q. I show you a letter, dated May 11th, to Mr. Sanborn, signed C. H. Smith, and ask you if you did not send that letter to Mr. Sanborn?

A. Yes, sir.

Q. Does that letter refresh your mind any, now, as to whether or not you knew that Mr. Sanborn was still with the Curtis Company?

A. Yes, sir.

Q. Then you wish to change your testimony that Mr. Sanborn was not selling "Collier's Weekly" through boys?

A. It looks like he was still acting as agent for the Curtis Company, yes, sir.

MR. SPIESS: That is all.

MR. MILBURN: I think that is all. Yesterday, in Mr. Douglas' statement, I specifically referred to one letter which we did not have a copy of when I offered it. I think I offered twelve form letters at the time. I now produce the form letter referred to and offer it in evidence, and ask that it be copied in the record.

(The letter referred to was thereupon marked by the stenographer "Respondent's Exhibit No. 47," and is as follows):

RESPONDENT'S EXHIBIT NO. 47.

"THE CURTIS PUBLISHING COMPANY
Independence Square
Philadelphia
The Ladies' Home Journal
The Saturday Evening Post
The Country Gentleman
Vocational Division
WE ARE PLEASED TO ANNOUNCE THAT

because of his excellent record with us during the past year, is entitled to a renewal of his Y. M. C. A. Membership in your Association.

This honor and privilege is continued because we want him to have all the wholesome enjoyment and character building influence that it is in your power to bestow.

If this meets with your approval, please return this letter with your "O. K." on the margin and with a bill made out to The Curtis Publishing Company for one year's membership in your Boys' Department.

We bespeak your interest in him as good Association timber.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

LYR-1 *Vocational Division.*"

MARTIN KORB was called as a witness on behalf of the Commission and , having been duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Where do you live?

A. Dumont, New Jersey.

Q. What is your occupation?

A. Traveling representative of the Pictorial Review Company.

Q. How long have you held that position?

A. Ten years.

Q. You were the traveling representative, then, in 1916, were you, and 1915?

A. Yes, sir.

Q. You were at the hearing in Baltimore, were you not?

A. I was.

Q. Now, it was testified in that hearing—I have not the name of the witness here, and I do not presume that will be necessary—that you, at some time, called upon Thomas at Baltimore, one of the agents of the Curtis Publishing Company; Smith at Washington, and Kimber, of Richmond, and made certain representations about Curtis agents who were handling "Pictorial Review." Do you know about that testimony?

A. I do.

Q. Was that correct?

A. It was correct, at the time I made the statements to these wholesalers.

Q. Will you just state the circumstances surrounding that—why you made those representations?

A. I have been calling on Smith at Washington for a good many years, and he had always promised, when he was ready to break away from the News Company, he would come with us. So, naturally, we had no contract to sign with any of our agents——

Q. Now, just confine yourself to answering the question.

A. Well, I have got to bring that in there.

Q. Well, go ahead, then.

A. So it was practically a gentlemen's agreement as to their taking over our agency.. Smith had always agreed to take the agency, but up until the date of March 22nd—on February 22nd——

Q. What year?

A. 1917—he had received a telegram from Mr. Douglas, stating that he could not handle——

MR. WELCH: Is Mr. Korb reading off a statement?

THE WITNESS: No; this is just the dates that I traveled to the various towns. I have got to know the dates. On February 21st he received a telegram from Mr. Douglas, stating that he could not handle "Pictorial Review" without his sanction.

Smith stated to me at that time again——

By MR. DALY:

Q. All I asked you about is this: Did you tell Mr. Smith that——

A. You asked me about Thomas.

Q. I am asking you about Smith, too.

A. The three at one time?

Q. Now, take Smith first. Did you tell Smith—you said you did?

A. All right. I told Smith that Solomon was handling "Pictorial Review."

Q. Why did you state that?

A. Because he was from the March issue, on up until May.

Q. When you saw Smith you were telling the truth with reference to that?

A. I absolutely was.

Q. Now, then, take up Thomas in Baltimore.

A. I had told Thomas that Smith had promised that he would handle "Pictorial Review"; that Schaefer in Pittsburgh was handling "Pictorial Review."

Q. As a matter of fact, were they or not, at that time?

A. Schaefer was handling "Pictorial Review," March and April issues.

Q. How about the other man?

A. Smith, as I stated, had given me a gentleman's agreement that he would begin on "Pictorial Review."

Q. Take Kimber, at Richmond.

A. I called there on February 21st.

Q. 1917?

A. Yes—and I told him that Smith had promised me he would take on "Pictorial Review." I had said to him that Solomon at Cleveland was handling "Pictorial Review," and also Smith at Pittsburgh, and Scott Kraus at Columbus.

Q. You understood that to be the fact?

A. Those were the existing conditions.

Q. Did you at any time make any representations to any agent or representative of the Curtis Publishing Company about this subject, that was not a fact?

MR. WELCH: I object to that.

MR. DALY: I wll change the form of that question. Strike that out.

By MR. DALY:

Q. Whenever you did make a representation of this character to an agent, you had seen the agent prior to these representations, had you?

MR. WELCH: I object to such a general question as that. He can ask him about any specific statement he made, but I object to any sweeping denial of that sort.

By MR. DALY:

Q. You saw a number of Curtis agents throughout the country?

A. I did.

Q. Did you talk to any of their agents—did you make representations of this character?

A. I did to a great many of them, but in each case I always stated the truth, for the simple reason, as I just stated to you, that I had no signed contract. I have only taken the word of the wholesaler, as a gentleman's agreement.

MR. WELCH: I don't know what this all means.

MR. DALY: This is perfectly proper, Mr. Welch.

By MR. DALY:

Q. And you had solicited the agents, hadn't you, to take on "Pictorial Review" in these cases?

A. Some cases I did, and some cases they solicited me.

Q. And, when they did promise to take them on and had taken them, you afterwards made representations about that. Those are the conditions, are they?

A. Absolutely; yes, sir.

MR. DALY: That is all.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, you said that Smith of Washington agreed to take your agency?

A. Quite right.

Q. When?

A. 1914.

Q. Where was Smith then?

A. Right near Three and one-half Street there, Washington, D. C., in his office, the Capitol News Agency.

Q. How did he happen to agree to take your agency in 1914?

A. I had called on Smith. We were interested then in an outside proposition, something that had nothing to do whatever with the wholesale newsstand business. I gave him a personal call, as I did all wholesalers in my travels throughout the country, and Smith said: "Korb, why don't you break away from the New Company?"

Q. He suggested it, did he?

A. Yes, sir.

Q. You did not tell him that you were going to break away?

A. It was in 1914. We had no intentions, then, of breaking from the News Company.

Q. You did not make him any definite proposition?

A. No, sir; none.

Q. He could not agree to anything you did not definitely offer him, could he? Why don't you answer that question?

A. He could, with the proviso he had stated to me, if we gave him our business or ever broke away from the News Company, he would double our business over and above the News Company.

Q. When did he state that to you?

A. 1914.

Q. What was he handling then?

A. The Curtis and the Hearst publications.

Q. Was Mr. Powers then in business in Washington?

A. I could not tell you.

Q. You did not go to anybody else but Mr. Smith, the Curtis agent, did you?

A. I did not call on Mr. Smith relative to taking over any wholesale agency. It was just a personal call, and at that time he had shown me his quota card of the Curtis Company, showing me his sales, his wonderful stride, his increase in business.

Q. You considered that an agreement on the part of Smith to take your agency; is that it?

A. I had called on Smith after that, of course.

Q. That was in 1914?

A. Yes, sir.

Q. Well, now, when did you see him after that?

A. 1915, 1916 and 1917.

Q. Now, when you told Thomas and Kimber that Smith had promised to take the agency, was that what you had in mind?

A. I had never told Mr. Thomas, actually. I spoke to Graves.

Q. You testified just now you told Thomas that Smith had promised to take the agency, and that Schaefer was handling "Pictorial Review"; is that correct?

A. That is correct.

Q. Dd you tell him Smith had promised to take it, or not?

A. Yes.

Q. You did tell Thomas that Smith had promised to take "Pictorial Review"?

A. Indirectly, after my interview with Graves.

Q. How was that?

A. Graves had the agency at that time, and Thomas was a listener-on. That was my understanding, he was to take over the agency the next day.

Q. Then Thomas did not have the agency when you told Thomas that Smith had promised to take it?

A. I did not know if the contract was signed or not, but he told me he was open for business the next morning, February 22nd.

Q. Where was this you saw Thomas?

A. In Clay Street, Baltimore, at his office.

Q. Did you tell anybody that Smith had promised to take the "Pictorial" agency?

A. Quite a few; yes, sir.

Q. You told Thomas, did you not?

A. Not as a wholesaler. He was not a wholesaler, to my knowledge. I told Graves and Thomas was a listener-on.

Q. You did not tell Thomas directly?

A. No, sir.

Q. Did you tell Kimber that Smith had promised?

A. I did; yes, sir.

Q. Were those statements made on that promise that you spoke of, that Smith made in 1914?

A. No, sir; that statement was made on the promise of February 21st, after Smith had received a telegram from Mr. Douglas, stating that he could not handle "Pictorial Review" without his sanction.

Q. Now, I want to get this straight. Then, after Smith had received a telegram from the Curtis Publishing Company, saying that he could not take on "Pictorial Review," you told these other men that Smith had promised to take it on?

A. No; I told Kimber that Smith had promised to take it on.

Q. That was after you knew that Mr. Douglas, of the Curtis Company, had telegraphed he could not take it on?

A. Quite right. After he had received the telegram from Douglas, he says: "This isn't final; I will telephone," which he did.

Q. Then what did he say? Then what did he promise—to take it?

A. Pardon me just a moment. In the meanwhile he waited for a communication to Philadelphia, which

was a holiday, February 22nd. I had taken my trip to Richmond, Virginia, and I had seen Kimber, and I told him the conditions, that Smith still insisted he would handle "Pictorial Review," and my final answer from Smith was received on March 22nd, and that date I went over to see Powers and appointed him as the agent.

Q. When you told Thomas that Smith had promised to take it on, did you know that he had received a telegram from the Curtis Publishing Company?

A. No, sir; I did not. That telegram was handed to me by Smith that afternoon, after I had spoken to Graves and Thomas.

Q. Now, you told Smith that Solomon was handling "Pictorial Review"?

A. Yes, sir.

Q. Did you not tell him that Schaefer, of Pittsburgh, was handling it?

A. I did; yes, sir.

Q. Did you not tell him that Scott Kraus was handling it?

A. I did; yes, sir.

Q. Did you say anything to Smith when you told him that Scott Kraus, Solomon, and Schaefer, of Pittsburgh, were handling "Pictorial Review"? Did you say anything about the Curtis Company having consented to it?

A. I told him that in one or two cases the Curtis Company had consented—that they consented to Solomon handling it.

Q. Did you tell them that they consented to Schaefer handling it? Did you tell Smith that the Curtis Company had consented to Schaefer handling it?

A. No, sir; I did not.

Q. Did you tell Smith that the Curtis Company had consented to Kraus handling it?

A. Oh, I have no doubt you have got my letter that I wrote.

Q. I asked you a question. Cannot you answer that?

A. I never told him, no. I wrote to him.

Q. You never told him?

A. Yes, I wrote to him; I never told him.

By Mr. Daly:

Q. Did you so state in that letter?

A. I believe I did; yes, sir. The fact that he was handling the March and April "Pictorial Review," and the date that I called there; I left Columbus, en route to Pittsburgh, and the Curtis man was in town that day, and at that time they had not changed the agency, and Scott Kraus said to me: "Lay low, I don't know what they are going to do. They may not pull it off at all. So far, everything looks O. K."

By Mr. Welch:

Q. What is all this in answer to?

A. That is an answer to my letter to Smith.

Q. I haven't mentioned your letter. I asked you whether you told Smith that the Curtis Company——

A. Then I will say no. All right, sir.

Q. I will ask you whether you told Smith that the Curtis Company had consented to Scott Kraus handling "Pictorial Review."

A. Verbally, no; but I wrote Mr. Smith.

By Mr. Daly:

Q. You told him by letter; is that what you mean?

A. Yes, sir; that is what I said. I told him by letter.

By Mr. Welch:

Q. I refer to a letter which was introduced in evidence by us in Baltimore, at page 3192 of the record, dated March 11, 1917, addressed to Mr. Smith:

"Dear Smith:

I take the liberty of writing you these few lines. One reason I have failed to hear you about talking over my agency. Second, some pretty good news. Agents like Scott Kraus of Columbus, every dealer in Boston section, have been sanctioned the right to handle Pictorial Review. Why let them hold back on you?

(Signed) MARTIN KORB,
Hotel Henry,
Pittsburgh, Pa."

That is not all of the letter. There was another portion to it which is immaterial to what I at present want. You wrote that letter, did you not?

A. I did; yes, sir.

Q. That Scott Kraus had been sanctioned the right to handle "Pictorial Review"—you wrote that?

A. I did, yes.

Q. Do you know that Scott Kraus testified in this case?

A. Do I know that he did?

Q. Yes.

A. He might have.

Q. Have you ever read his testimony in this case?

A. No, sir; I did not.

Q. Did you know that Scott Kraus testified in this case that he handled "Pictorial Review," and at page 1526 of the record, that objections were raised by the Curtis Company, and that subsequently, at page 1526 of the record, his contract with the Curtis Company was canceled, on account of his handling "Pictorial Review"?

A. What date?

Q. What date what?

A. What date was his contract canceled?

Q. I don't know.

A. Neither do I. I am only taking his word for

it. He told me there was no objection raised, so I go ahead and spread the news. Your man was there looking for an agent.

Q. Did Kraus tell you he had been sanctioned the right to handle "Pictorial Review"?

A. He said no objection was raised. He had handled March and April.

Q. Is that equivalent to sanctioning the right to handle "Pictorial Review"?

A. He says he is going to handle it—"Curtis hasn't said anything to me."

Q. Curtis hadn't said anything to him; is that it? You say he told you Curtis hadn't said anything to him?

A. Scott Kraus told me: "So far, they haven't taken my agency away."

Q. He told you that?

A. Yes, sir.

Q. And on that you based your statement that the Curtis Company had sanctioned it; is that it?

A. Absolutely.

Q. Now, "every dealer in the Boston section has been sanctioned the right to handle 'Pictorial Review.'" You wrote that to Mr. Smith?

A. I did; yes, sir.

Q. What did you base that on, "every dealer in the Boston section"?

A. Mr. Mackinnon told me about that.

Q. Mr. Mackinnon?

A. Yes, sir.

Q. Now, at the end of this letter which you wrote to Mr. Smith of March 11, 1917, at page 3193 of the record, you have what you call an extra, which reads as follows:

> "Curtis backed up in Boston, gave consent to Reiser, Machever, Goldsmith, Salem, Fall River, Brockton, etc., etc. That is what they do when

dealers stick and say 'We resign.' Get together, stand pat, and win out. Korb."

You wrote that, did you not?

A. I wrote that; yes, sir.

Q. What was the basis of all that information, that Curtis backed up in Boston?

A. Mr. Mackinnon told me.

Q. Were you acting under Mr. Mackinnon's instructions entirely?

A. Always; yes, sir.

Q. Now, what did you tell Thomas, and when did you see Thomas before?

A. On the morning of February 22, 1917, the first time.

Q. And whom did you mention as the man to Thomas that had taken on the "Pictorial Review" with the consent of the Curtis Publishing Company?

MR. DALY: Is this the time, Mr. Welch, when Graves was present?

THE WITNESS: Yes, Graves was always present when Thomas was there. I was dealing with Graves mostly and not with Thomas.

By MR. WELCH:

Q. Did you have any conversation at all with Thomas?

A. Not without the presence of Graves.

Q. To whom were you talking—Graves or Thomas?

A. Graves, most of the time.

Q. And you had no conversation with Thomas?

A. Not directly, outside of "Where do you come from," and "Do you remember me from being in Newport News," etc.—just trying to bring back old recollections.

Q. All your conversations were with Graves?

A. Relative to the agency?

Q. Yes.

A. Yes. As a matter of fact, Thomas states that I spoke to him about the agency. I never did. Graves was the man I seen, and I seen him about a month before this contemplated change, I believe. No doubt it has been testified arrangements were made in November, but I was not aware of that. But I had spoken of Graves always, and Graves said he would take up the matter with Thomas when he came up from Newport News.

Q. Was Thomas present?

A. I do not know whether he was at Newport News or where he was, but that is the way Graves stated it to me. I had gotten in that morning at half past seven at Clay Street, in Graves' place, and Graves told me about conditions, and he said, "You know I am going to change this place."

Q. To whom did you tell Schafer was handling "Pictorial Review," and that Smith was handling it, and Krauss was handling it?

A. Both were present.

Q. When was that?

A. February 22.

Q. You said then that Schafer was handling it?

A. Yes, sir.

Q. Did you say anything about Kraus handling it?

A. Yes, sir.

Q. With the consent of the Curtis Publishing Company?

A. No; I did not mention the Curtis Publishing Company—with the consent of the Curtis Publishing Company—at all.

Q. Or with the sanction?

A. Or not with the sanction. I just stated they were handling "Pictorial Review."

Q. What year was that?

A. 1917.

Q. That was the day you told Thomas that Shafer was handling it?

A. I did; yes.

Q. And that Kraus was handling it?

A. They were handling it; yes.

MR. DALY: He has answered that question three or four times.

THE WITNESS: They were handling it—certainly they were.

MR. DALY: I do not think the witness ought to be haggled.

By MR. WELCH:

Q. When did the "Pictorial Review" go independent—distribute through wholesalers? What was the first issue?

A. Let me get you straight on that. Do you mean when we broke our contract with the News Company or started supplying wholesalers with copies?

Q. When you broke your contract with the News Company?

A. That was April 10—the May issue.

Q. At the time you told Thomas about Schafer and Kraus and Smith, "Pictorial Review" was still going through the News Company, was it not?

A. But we were supplying wholesalers direct.

Q. Were you supplying wholesalers for them to deliver to retail dealers?

A. Those not drawing from the American News Company; yes.

Q. Did you qualify your statement to that extent?

A. Absolutely; yes, sir; in all cases. That was my chief instruction from Mr. Mackinnon.

Q. Then you did not tell these men, as I understand it, that Schafer and Smith were handling it as wholesalers to everyone, did you—is that it?

A. At that time?

Q. Yes.

A. No; I did not tell them they were handling it as wholesalers to everyone, but as I had no contract to have these men sign that they would be wholesale agents when we broke from the News Company, I only took their word that they would handle it, from the fact they were doing business with us.

Q. When you say they were handling it, you mean only in a limited way?

A. No; in an indirect way they were handling it. They were wholesaling "Pictorial Review."

Q. In this letter which you wrote to Mr. Smith, of March 11, 1917, you did not qualify that statement in that way, did you, that they were handling it only in a limited way?

A. Well, just as I stated, that these men—at that time that I had these interviews with the wholesalers, you must always take into consideration it was only a mutual agreement that these men had promised they would handle "Pictorial Review" on April 10—the May issue.

Q. When you told Thomas and Smith that Solomon and Schafer were handling it——

A. They were handling it, absolutely. They were our wholesalers, not under contract. The fact that they were handling the March and April issues—we would ship them the May copies, naturally.

Q. They were not handling it to news dealers generally, were they?

A. Only those not drawing from the American News Company.

Q. They were not handling it to the retail dealers generally?

A. Only those not drawing—not being supplied by the American News Company.

Q. When did you see Mr. Kimbrough, at Richmond?

A. I had seen Kimbrough several times. My last interview with him was sometime in—somewhere in the neighborhood of February. That was the last time that——

Q. February, 1917?

A. Yes; somewhere in the neighborhood of February.

Q. What did you tell Kimbrough about other Curtis agents handling "Pictorial Review" with the consent of the Curtis Publishing Company?

A. I never told him with the consent of the Curtis Publishing Company.

Q. Or with the sanction of the Curtis Publishing Company?

A. I never made any such assertion.

Q. What did you tell him?

A. I told him men like Scott Kraus, Solomon and Ramroth and Schafer were handling "Pictorial Review."

Q. That was in February?

A. Yes, sir; and I wanted to do business in February.

Q. That was before the "Pictorial Review" left the American News Company and went to the wholesalers generally?

A. Yes, sir.

Q. Did you talk to Kraus and Schafer and Solomon and these people that you have mentioned?

A. Did I talk to them?

Q. Did you personally talk to them?

A. Yes; I have talked with them.

Q. You travel around for the "Pictorial Review" people, do you not?

A. Yes, sir.

Q. You are one of their roadmen?

A. Yes, sir.

Q. And have been for a good many years?

A. Yes, sir.

Q. And you talked personally with these men?

A. I did; yes, sir.

MR. WELCH: That is all.

RE-DIRECT EXAMINATION.

By MR. DALY:

Q. When you speak about your company breaking its contract with the American News Company, you mean when they stopped doing business with them, do you not?

A. Yes, sir; when we discontinued them as our wholesale distributors.

MR. DALY: That is all.

ROBERT J. CUDDIHY, called as a witness on behalf of the Commission, and being first duly sworn by the Examiner, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. What is your first name, Mr. Cuddihy?

A. Robert J.

Q. What business are you in?

A. In the publishing business.

Q. What publishing company?

A. With Funk & Wagnalls Company, publishers of the "Literary Digest."

Q. What position do you hold there?

A. Well, I am treasurer and general manager.

Q. Are you familiar with the methods of distribution of the "Literary Digest" throughout the country?

A. To some extent; yes.

Q. Will you state how the "Literary Digest" now is distributed?

A. You mean this——

MR. WELCH: Mr. Examiner, I object to the testimony as to the method of distribution of the "Literary Digest," I do not think it has anything to do with this case, except in so far as any specific instance where the Curtis district agent is involved or concerned.

MR. SPIESS: Mr. Examiner, it has been testified to by a witness for the respondent that the American News Company is the most efficient means of distribution to the large publishers. We want to show by the testimony of Mr. Cuddihy that he has used the distribution of the American News Company, and is now distributing to the independent wholesalers of the country, and I am just laying a foundation as to his experience and his knowledge of the distribution of the "Literary Digest" throughout the United States.

MR. WELCH: That can be done by a proper question, if that is what you seek to prove. He is asking now the method of distribution of the "Literary Digest" at the present time throughout the country. He does not say a word about whether he distributed through the American News Company or what?

MR. SPIESS: I have not had a chance.

By MR. SPIESS:

Q. How do you distribute your magazines now?

MR. WELCH: I object to that as immaterial to this case in every way.

MR. SPIESS: I will withdraw that.

By MR. SPIESS:

Q. Was the "Literary Digest" ever distributed through the American News Company?

A. Yes, and is today.

Q. How long ago has it been since you have been distributing your magazine through the independent wholesalers throughout the country?

MR. WELCH: I object to any testimony as to the present method of distribution of the "Literary Digest," except in so far as it, in any way, is connected with the Curtis district agents, and I object to general statements here as to the circulation of the "Literary Digest."

MR. SPIESS: Mr. Examiner, the respondents put an officer of the American News Company on the stand to show the distribution of publishing houses through the American News Company. Mr. Douglas, their circulation man, of the Curtis Publishing Company, testified that the American News Company was the most efficient means of distribution.

MR. MILBURN: We do not object on that line—his familiarity with that line is not objectionable.

MR. SPIESS: I asked if he was familiar with the distribution of the "Literary Digest."

MR. MILBURN: That is the first time the word "familiar" has been used.

MR. SPIESS: He said in a general way he was.

By MR. SPIESS:

Q. Now, when did you first begin distributing the "Literary Digest" to the independent wholesalers direct?

A. About a year ago last March.

Q. Can you give me the circulation of the "Literary Digest" through the American News Company before you began this independent distribution through the wholesalers?

MR. WELCH: I object to that as entirely immaterial and irrelevant in this case.

MR. SPIESS: We submit that this is proper examination because the testimony of the American News Company is in here about the circulation of publishers through the American News Company, and the respondent has introduced the circulation of other publishing houses. The American News Company testifies as to what the circulation was and the returns under that system of distribution. I am asking now what was the distribution of the "Literary Digest" through the American News Company before they began the independent method of distribution. I think it is absolutely pertinent in this case, to be followed by another question to show what the circulation is now. They are not handling their magazine through the American News Company——

MR. DALY: They even introduced testimony in this case that the "New York World" was satisfactorily distributed through the American News Company.

MR. SPIESS: A representative of Street & Smith testified to the same effect.

MR. WELCH: Those men testified as experts in this case. If you want to qualify Mr. Cuddihy as an expert in this case, all right.

THE WITNESS: I could never do that.

MR. WELCH: That is one thing, but to put in the distribution of the "Literary Digest" through the News Company and then try to show the distribution through the independent wholesalers, I submit in this case is utterly immaterial.

MR. SPIESS: It does not take an expert to give figures for his own company.

EXAMINER MOORE: You can answer the question.

MR. WELCH: We note an exception.

By MR. SPIESS:

Q. What was the circulation of the "Literary Digest" through the American News Company prior to the time you began to distribute your magazine through these independent wholesalers?

A. I looked up the figures this morning and the very last week we dealt with them approximately, I think it was 174,500. It had been going up very rapidly in the preceding three weeks.

Q. What is it today, through the independent distributors?

MR. WELCH: The same objection.

EXAMINER MOORE: The same ruling.

MR. WELCH: I note an exception.

EXAMINER MOORE: An exception will be noted.

THE WITNESS: To the independent news dealers, 233,041 of the June 29 issue, which is the last issue.

By MR. SPIESS:

Q. What is it through the American News Company today?

A. Fifty-four thousand six hundred, making a total of two hundred and eighty-seven thousand six hundred and forty-one.

MR. SPIESS: That is all.

MR. WELCH: Mr. Examiner, I wish to renew my objection and move to strike out this witness's testimony on the ground that there is just a bald statement of figures here without anything to indicate that these figures—that this increase which has been testified to in circulation—was in any way due to the fact that the "Literary Digest" had ceased circulating through the American News Company, and on the other grounds already stated.

MR. DALY: The testimony is that they went independent, and, prior to that time, they were

circulating through the American News Company and that when they were going through the News Company, they had so much circulation, and afterwards the circulation was so much. It seems to me it is perfectly proper and quite as relevant as a question asked the "New York World" representative as to whether or not they had an efficient way of getting out their papers through the American News Company.

MR. WELCH: This does not show the efficiency or inefficiency of any means of distribution.

MR. DALY: But it shows a growth.

MR. WELCH: But all magazines grow.

THE WITNESS: There were reasons, of course.

EXAMINER MOORE: Objection overruled.

MR. WELCH: I note an exception.

EXAMINER MOORE: An exception will be noted.

CROSS-EXAMINATION.

By MR. WELCH:

Q. What was the date of your last issue through the American News Company?

A. You mean exclusively?

Q. Yes, the one that you stated——

A. March 17.

Q. Of what year?

A. Last year.

Q. March 17, 1917?

A. Yes, sir.

Q. Now, prior to that time, three or four months prior to that time, your circulation had been increasing through the American News Company, had it not?

A. Very rapidly.

Q. Have you any figures there for February and January, 1917?

A. No, sir.

Q. Would you say that the increase for the few months—three or four months—prior to your leaving the News Company in March, was about in the same ratio as the increase which occurred since?

A. I would not like to guess at that. My recollection is, from a swift glance at the figures today, that in the several weeks immediately preceding March, 1917, there had been a very rapid advance—four, five or six thousand a week.

Q. Through the American News Company?

A. Yes, sir.

Q. Was that due to any special advertising efforts on the part of your company?

A. Practically all of this is due to special advertising efforts on our part. We do not give the American News Company any particular credit for this nor anyone else.

Q. And you have continued your advertising efforts right along?

A. We are still at it.

Q. And in your opinion, has that been the cause of your increase in circulation?

A. I would not like to say just merely advertising has done all of this.

Q. It is one of the contributing causes?

A. It is one of the contributing causes; yes, sir. We have to depend, also, on the distributors throughout the country—their co-operation.

Q. What you now distribute to the American News Company is on a non-returnable basis?

A. Yes, sir.

Q. You can readily get me the figures showing the circulation of the "Literary Digest" through the American News Company for the five months prior to March, 1917, can you not?

A. Yes, sir.

Q. Now, do you understand what I want?

A. You want me to get you the figures of the circulation of the "Literary Digest" through the American News Company for the five months prior to March 17th, 1917.

MR. MILBURN: Per month.

THE WITNESS: Not per week?

MR. WELCH: Yes, per week.

THE WITNESS: For about five months?

MR. WELCH: Yes; and then I want you to get me the circulation figures of the "Literary Digest" per week for about five months following that date.

THE WITNESS: Have we got to do all these things—show all these things about our private business—in connection with this particular controversy?

EXAMINER MOORE: I think it is perfectly proper.

THE WITNESS: Is that all right?

MR. DALY: I think so.

MR. WELCH: We do not like to burden you with this work.

THE WITNESS: It is not the burden of doing it that we are objecting to. We do not like to disclose to these competitive boys secrets. They may learn some of our new wrinkles.

Now, as I understand you, Mr. Counsel, you want about five months preceding the issue of March 17, 1917?

MR. WELCH: Yes.

THE WITNESS: And then you want about five months after that?

MR. WELCH: After that; yes.

THE WITNESS: Now, what kind of circulation do you want, then? Do you want the American News Company or all of it?

MR. WELCH: I want the circulation that corre-

sponds with the figure of 233,041, which you gave for June, 1918.

THE WITNESS: The five months after that——

MR. WELCH: Not five months after June, 1918, but five months after March, 1917.

THE WITNESS: I understand that.

MR. WELCH: I want the corresponding figure with the circulation through what Mr. Daly termed the wholesalers, and also through the American News Company. You gave two figures, if you will recall.

THE WITNESS: You want some figures that I have not mentioned at all?

MR. MILBURN: We do not want anything at all that you have not mentioned.

(Discussion off the record.)

By MR. WELCH:

Q. Mr. Cuddihy, the figures of 174,500 which you gave as your circulation through the American News Company in March, 1917—was that a circulation through the News Company on a returnable basis?

A. Yes, sir.

Q. Now, the circulation that you gave of 233,041 through the so-called wholesalers in June, of 1918—does that represent net sales?

A. No; that represents the complete distribution subject to a maximum of ten per cent. returns, as I understand it. I am not the circulation man or the news man in our place. I am doing the best I can with the information I have.

Q. When you gave the circulation figure of 233,041 copies of June, 1918, you did not mean that number of copies were actually sold?

A. No; they were distributed through the dealers. The News Company figures are sales.

Q. Of these 233,000, some of them cover returns?

A. Yes, sir.

MR. DALY: I think these figures ought to be net sales in order to have them correct in each case. These figures that you are asked to furnish should be net sales.

MR. WELCH: I am asking for the figures that correspond with the figures that he gave on his direct examination. If you want any other figures, Mr. Daly, I suggest that you ask him to furnish them.

That is all, Mr. Cuddihy.

RE-DIRECT EXAMINATION.

By MR. SPIESS:

Q. When you were distributing exclusively through the American News Company, you cited a figure of 175,000. Was that net?

A. One hundred and seventy-four thousand five hundred.

Q. Yes.

A. No; those were subject to returns.

Q. They were fully returnable, were they not, under the American News Company contract?

A. No; they were not fully returnable. I think we had something like a time limit. As a percentage proposition they were fully returnable, but there was a time limit.

Q. Under the system you have now, it is approximately ten per cent. returnable with the independents?

A. Yes; that is the rule with us.

Q. Now, you testified that you advertised the "Literary Digest" extensively before you broke away from the American News Company and after you broke away from the American News Company—is that true?

A. Well, we have been advertising the "Literary Digest" extensively for a great many years.

Q. Then, why did you break away from the American News Company distribution?

MR. WELCH: Oh, I object to that question as being immaterial and irrelevant.

By MR. SPIESS:

Q. Do you know why you broke away?

A. I think I do.

Q. Will you tell us why?

MR. WELCH: I object to that.

MR. DALY: On what ground?

MR. WELCH: As immaterial and irrelevant—why the "Literary Digest" broke away from the American News Company.

MR. DALY: The fact they broke away is perfectly relevant.

MR. MILBURN: That is a ruling, Mr. Daly, and not an argument.

MR. DALY: I am coming to the argument. They tried one method and then another. That is the very matter in controversy.

EXAMINER MOORE: Let him answer.

MR. WELCH: I note an exception.

EXAMINER MOORE: An exception will be noted.

THE WITNESS: We had begun a very intensive campaign of advertising in the newspapers about that time or prior to the time of our breaking away, and we readily or quickly concluded, after noting things, that we would not get so wide a distribution of our paper in the remote districts, if we did not take up the job ourselves, and, therefore we did it. We thought we would improve our business.

MR. SPIESS: That is all.

RE-CROSS-EXAMINATION.

By MR. WELCH:

Q. What date was it you commenced this intensive advertising? Was that shortly prior to the time you left the News Company?

A. No; our most intensive campaign has been since we left the American News Company. That is, our very intensive campaign has been during the past year.

Q. Prior to the time that you left the News Company, you did not inaugurate the very intensive system of advertising you are now speaking about?

A. Oh, we were doing pretty good advertising.

Q. Now, you said there were reasons for this increase, which you did not state.

A. Well, that is about the reason.

Q. What?

A. Advertising.

Q. Intensive advertising since leaving the American News Company?

A. Well, particularly strenuous advertising in the past twelve months?

MR. WELCH: That is all.

MR. DALY: That is all.

EXAMINER MOORE: Call your next witness.

MR. DALY: Mr. Examiner, we can make time by not putting Mr. MacKinnon on until after lunch. I want to go over his testimony. I have not had an opportunity to do it.

MR. WELCH: Have you got somebody else?

MR. DALY: One more, just Sanborn and MacKinnon.

MR. WELCH: Put Sanborn on now.

MR. DALY: Well, we can start with Sanborn now.

HAROLD SANBORN was called as a witness on behalf of the Commission and, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Where do you reside, Mr. Sanborn?

A. Denver, Colorado.

Q. What is your business?

A. Distributor of magazines.

Q. What territory do you cover?

A. Denver and surrounding towns.

Q. How long have you been in that business?

A. About six or seven years, now.

Q. What magazines do you handle?

A. At present?

Q. Yes, at present.

A. The "Literary Digest," "Pictorial Review," the Hearst publications, the Munsey publications, "Collier's," the Ricker News Company publications—maybe a few others. We have got quite a lot of small fry. Do you want them all down?

Q. Yes.

A. "Jim-Jam-Jems," "Photoplay World," Sporting News."

Q. Now, what magazines were you handling about February, 1917?

A. Well, we had the Curtis publications then, that we have not got now, and we lack the "Literary Digest" and the "Pictorial Review."

Q. With the exception of the "Pictorial Review" and the "Literary Digest" and the Curtis publications, you were handling all of these other magazines at that time, were you?

A. All except one or two minor exceptions.

Q. And you were the only wholesaler there, at that time, of magazines, were you not?

A. Except the American News.

Q. The American News Company has a branch there, have they not?

A. Yes, sir.

Q. Now, how long had you handled Curtis publications? When did you begin with the Curtis Company to deal in their magazines?

A. I believe that it was about 1910 or 1911 I started with them.

Q. What were you doing, prior to that?

A. I was rather of a retailer of magazines. I had a route.

Q. Just a retailer? Then you took on the Curtis publications?

A. Yes, sir.

Q. And afterwards, you took on these other magazines; is that true?

A. Yes, sir.

Q. And you did not deal in newspapers; is that correct?

A. No, sir.

Q. And do not now?

A. No, sir; not at present.

Q. Now, were you under contract with the Curtis Company?

A. Yes, sir—had to be.

Q. And you began with them about 1910, did you?

A. I think it was 1911. I am not dead sure of the year, now.

Q. Now, it has been testfied all through in this case that a contract was put out by the Curtis Company, with a provision in it that it was necessary for agents —their so-called agents—to get permission from the company before they could handle other magazines. Are you familiar with the terms of that provision?

A. Yes, sir; very familiar.

Q. And it was in your contract, was it?

A. Yes, sir.

Q. And was that the contract that you had at the beginning with them?

A. Yes, sir; why, when I first took over the agency, they had a different form of contract, not quite as stringent as the one we had to go into a year or two later.

Q. You executed this other contract and operated under it until when?

A. Until—well, I got my notice of cancellation about the 20th of last November.

Q. And, at the expiration of the time provided for in the contract, subsequent to that notice, you gave up the publication?

A. I did not give it up.

Q. It was transferred from you; is that true?

A. Yes, sir.

Q. Now, did you have an organization of boys for the Curtis Company?

A. We had an organization of boys.

Q. How long did you have that organization?

A. Well, it has been coming along for years; of course, we had to keep renewing it.

Q. In 1910, when you went into this contract, did you have boys then working for you?

A. There was a team of boys connected with our organization then.

Q. You say connected with your organization. What do you mean by that?

A. Well, they were buying the Curtis publications at that time, and they naturally came to me when I took over the office.

Q. When you took over the office? What do you mean by that?

A. Well, I bought the furniture and fixtures, and everything like that.

Q. You took over the business of somebody else; is that what you mean?

A. Yes, sir.

Q. And, in taking over that, of course the boys came along with you; is that true?

A. Yes, sir.

Q. About how many were there?

A. I cannot remember the number very well, but I should say between 100 and 150, at that time.

Q. Now, at the expiration of your contract with the Curtis Company, you still had boys, did you not?

A. Yes, sir.

Q. And about how many did you have then?

A. Why, there was between 250 and 300, altogether, on our list. They may not all have been active.

Q. Do you know how many you were reporting in to the Curtis Company at that time?

A. Well, I should say—you see, the reports they furnish, there is lots of dead names on.

MR. WELCH: Now, wait a minute. I object to any characterization of these reports, and move to strike that out.

MR. DALY: Strike out that answer. I do not want that.

THE WITNESS: I should say we reported around 250, at a guess.

By MR. DALY:

Q. And in reporting, if any boy in this organization sold a Curtis paper, you would naturally and properly put him in the report, would you not?

A. Yes, sir.

Q. And did you put him in the report—rather—strike out that word "properly."

A. Yes, sir.

MR. WELCH: I object to striking that out.

By Mr. Daly:

Q. Now, during all of this period, then, as I understand it, you had boys. Now, will you tell the Examiner just what steps were taken about keeping up your organization of boys, and what was done about that?

A. They came in almost every way. Boys would come in the office, ask about selling magazines. Parents would call up. They read the advertisements of the Curtis Company. Sometimes there came a letter from them. Sometimes they were gotten through other boys. Lots of times we would go out to the school and work them up ourselves, just ask them if they wanted to sell magazines.

Q. Now, the roadmen would come along and help you out at different intervals?

A. Yes, sometimes.

Q. Will you tell me about how frequently they came and what they did when they came?

A. There wasn't a set time, but lots of times they averaged about twice a year.

Q. And when they would come, at these different intervals, what would they do?

A. It all depended. They sometimes merely dropped in and talked; sometimes, if we had a meeting, they would attend it and talk to the boys, and once in a while they would ask me to get up one, and once in a while assist me in getting up one.

Q. Getting up a meeting, you mean?

A. Yes, sir.

Q. As they would come along on some occasions, you provided them a meeting when they arrived; is that so?

A. Yes, sir.

Q. And then they would engage in the handling of this meeting, giving them instructions, and so on, in the regular way; is that true?

A. Well, they would kind of get up at a meeting and speak.

Q. Tell the boys about selling, and all of that, would they?

A. Yes, sir.

Q. Were there any meetings that they worked up?

A. Well, there was, as I recall it—there were one or two where they took most of the initiative. They would provide for sending out the notices to make the arrangements. I helped them at all times.

Q. You helped them at all times?

A. Yes, sir.

Q. Now, what remuneration did you receive for this work of getting up the meetings?

A. Why, they had an organization called The Ten Club, by which they paid us so much for each member at that time, and that partially covered a lot of the expenses, but there have been lots of meetings, at times, when we stood the expenses ourselves.

Q. Then there were meetings at which you, in working them up, would expend certain sums of money upon them; is that what you testified to?

A. Yes, sir.

Q. And for all the expense of these meetings, they were not paid by the Curtis Publishing Company?

A. Not in every case; no, sir.

Q. Did you pay quite a little of the expenses attendant upon the arrangement of those meetings?

A. Quite often. There have been several times a meeting has cost us several dollars, and we had no direct return from the company.

Q. What was the object of holding these meetings?

A. We got better acquainted with the boys. Sometimes they were given partly as a reward for better work.

Q. And it was stimulation, was it not, for them to increase the circulation?

A. Yes, sir; that is what we did it for.

Q. Now, you distribute papers outside of the city of Denver, do you not?

A. Certain places; yes, sir.

Q. How do you do that?

A. The company forwards those direct by mail, in most cases, and usually, or in most cases, we made a trip out there every so often, attending to collection and promotion, and getting the returns.

Q. How frequently would you go out to these outlying towns, or, rather, the places where these retailers were?

A. Sometimes we went every week, sometimes we made it twice a month, and then finally once a month.

Q. Would you keep in touch with the sales of the magazines through these outlying retailers, how they were doing?

A. Very closely. In the towns where there was more business, sell them every week and visit all of the boys, and went over everything with them, over their work every week.

Q. Now, then, you not only took out the Curtis papers to these outlying retailers, but you took other magazines as well, did you not?

A. Yes, sir; everything that we could get to supply.

Q. All of the magazines that you were handling, you delivered to these men, and kept in touch with them the same way; is that correct?

A. Yes, sir; worked it together.

Q. And in the city how many retailers were there that you served?

A. Why, at the present writing there is about 250. There was 247, to be exact, about ten weeks ago in our distribution.

Q. Would that fairly represent the number of retailers there were there in February and March, along in that period of 1917?

A. Very closly—might have been half a dozen more.

Q. Did you serve them all?

A. Practically all; all except one or two in the city.

Q. How would you keep in touch with the distribution of the magazines through that source?

A. I had one or two assistants, and we split up the territory, seeing these people two or three times a week, if they were of any importance, and we kept alternating, so I would see them every so often—see everybody myself every so often.

Q. Why would you do that?

A. Just to keep in touch, and if they were out of magazines, we attended to their re-orders. We had certain days when we re-covered, as we call it—visited most of the newsdealers and noted whatever they were out of, and asked them about bringing them more, and picking up things we needed to supply some other place.

Q. Did you make any charge for that service to anybody?

A. No, sir.

Q. The American News Company was distributing to these retailers to some extent, at least, was it not?

A. Yes, sir.

Q. Do you know how they got their magazines out to them?

A. The dealers either called for them there or else made a delivery charge for the service, and then they had to attend to returning their unsold magazines. If they visited, they had to get their bundles ready for the driver, and they had to watch the cart.

Q. You speak about "them." Who do you mean?

A. The dealers.

Q. And then the American News dealers did come around and pick them up?

A. No, sir; the news dealer had to do all of the work for the News Company.

By Mr. Welch:

Q. What was that answer?

A. When the dealer drew from the News Company, he had to do all of the work.

By Mr. Daly:

Q. You attended to all of these matters?

A. Yes, sir; and delivery, and also what they needed, and in collecting the money, too; we attended to that.

Q. In the other case, the dealer went about that?

Mr. Welch: Let him testify.

By Mr. Daly:

Q. Is that correct?

A. I did not get what you said.

Q. What did the dealer do about that?

A. He got everything from us he could.

Q. If you know this—and, if not, I don't want you to answer it, because I don't want anything that is not a fact—do you know about whether the News Company covered the whole situation there, served all of the dealers?

A. Well, we had from twenty-five to thirty-five dealers that just drew from us alone, and, now, of course, they get the Curtis publications.

Q. With the new Curtis man; is that true?

A. Yes, sir.

Q. And you never of course, were under the new contract, were you, with the Curtis Company, that they put in recently?

A. No, sir.

Q. Now, while you were handling the Curtis magazines and delivering these other magazines to these retailers, did you have any difficulty in putting them out to the retailer? Did you have too large a number, or anything of that kind?

A. No, sir; as we added more magazines we were able to improve our service, and be a little more regular and a little more efficient in our distribution.

Q. And you could handle other magazines, could you not?

A. Very easily.

Q. You could have handled other magazines and taken them on, and handled them with the same efficiency that you have testified about; is that true?

A. Yes, sir.

Q. Now, during the time that you were under this contract that you have testified about, were you ever asked to take on the "Pictorial Review"?

A. We received a letter stating that we could obtain the "Pictorial Review," as I believed, and we commenced handling it through correspondence.

Q. I am just a little ahead of what I want. While you were distributing these papers, can you give me the numbers of "Evening Posts" that you sold for the Curtis Company, at the time, we will say, that your contract expired?

A. I think I can. The last few weeks that we sold —the last week, the week of November 24th, I believe that was about one of the last weeks we supplied, we had a net sale of about 7700 copies.

Q. Of "Posts"?

A. Yes, sir.

Q. And, of "The Ladies' Home Journal"?

A. The December "Ladies' Home Journal," our net sales were close to 5900 copies.

Q. Have you the figures running back for any length of time?

A. Yes, sir.

Q. How far back?

A. I have the figures from May to December issues, 1917, and also 1916.

Q. Will you give those figures of the three magazines for that particular period?

A. The three magazines? I have just the "Journal" back that far. I just have one month of the "Post" and "Country Gentleman."

Q. Give what you have?

A. The May issue of 1917, our net sales on the "Journal" was 4192.

Q. What date was that?

A. May, 1917.

Q. Now, then, follow that up and give the circulation of the "Journal"?

A. June, 3921; July, 4262; August, 4407; September, 4642; October, 5091; November, 5272; December, 5897.

Q. Now, what figures have you for "The Country Gentleman"?

A. I have the comparison between November issues, 1916 and 1917, on the "Post" and "Country Gentleman."

Q. Well, will you give those?

A. The first week in November, 1916, our net sales——

MR. WELCH: Just one minute, Mr. Examiner. I cannot see the relevancy of this last question, comparison between November, 1916, and November, 1917. It is objectionable.

By MR. DALY:

Q. What figures have you there with reference to the "Evening Post"?

A. In 1917?

Q. Yes; the same period. Have you the figures for the same period that you have given for "The Ladies' Home Journal"?

A. No; just the last month of that, in November, 1917.

Q. What figure, comparing with that, have you for "The Country Gentleman"?

A. The same month.

Q. That is all I want, then, is those two months.

A. The issue of November 3, 1917, "Post" sales

were 7491, and November 10th the sales were 7498; November 17th, 7419; November 24th, 7738. On "The Country Gentleman," November 3d, 877; November 10th, 743; November 17th, 768; November 24th, 754.

Q. Now do you know about how many "Posts" you sold through your organization when you began with this contract?

A. Our initial order on the "Post" was 6717, I believe.

Q. And the "Journal"?

A. The "Journal," our first issue is, I think, about 5000 copies.

Q. And "The Country Gentleman"?

A. "The Country Gentleman" was not published when we started.

MR. WELCH: What date was this?

MR. DALY: When he began handling, in 1910.

By MR. DALY:

Q. And all during that period there was some increase?

MR. WELCH: I object to that.

By MR. DALY:

Q. Was there an increase or not?

A. There were ups and downs.

Q. You were with them a long time, were you not?

A. Yes, sir.

Q. And you got a notice in November, 1917——

MR. DALY: Now, was this the time that we were to adjourn?

EXAMINER MOORE: We will take a recess until 2 o'clock.

(Whereupon, at 12.45 o'clock P. M., a recess was taken until 2 o'clock P. M.)

(After recess the hearing was resumed at 2 o'clock P. M., pursuant to the taking of recess.)

HAROLD SANBORN, resumed the stand, and testified further as follows:

DIRECT EXAMINATION (Continued).

By MR. DALY:

Q. Now, you put in those figures for 1916 and 1917?

A. I did not put in the 1916 figures; no, sir.

Q. I would like to have the 1916 figures?

A. The sales on the "Post" for 1916——

MR. WELCH: What dates are these, now?

THE WITNESS: I gave figures for the "Post" and "Gentleman" in November, 1917, and now you want them for 1916?

MR. DALY: For the same period.

THE WITNESS: The same period, 1916, 11/4, 6978——

MR. WELCH: Just specify that period.

THE WITNESS: November, 11, 7099; November 18, 7085; November 25, 6988, and on the "Gentleman," November 4, 766; November 11, 810; November 18, 812, and November 25, 744.

By MR. DALY:

Q. Now, during the time you were handling the Curtis publications, did you or not handle the "Pictorial Review" any period during that time?

A. Well, from the spring of 1917 until the end of my Curtis agency, I was handling both.

Q. During that period, then, you handled the "Pictorial Review" along with the other magazines—is that true?

A. Yes, sir.

Q. Did you ask permission of the Curtis Publishing Company to take on the "Pictorial Review"?

A. I did.

Q. Did you get that permission?

A. No, sir.

Q. It was refused?

A. Yes, sir.

Q. How did you ask this permission?

A. I wrote to them and enclosed a postscript from Mr. McKinnon's letter, in which he stated——

Q. Well, you wrote. Have you the letter with you?

A. No, sir; I believe not.

Q. You do not know what became of the letter?

A. No, sir.

Q. Did you keep a copy of it?

A. No, sir.

Q. Well, you wrote inquiring about it?

A. Yes, sir.

Q. What was it you stated to them?

A. I asked for permission and enclosed a postscript in which the "Pictorial" stated they did not desire the boy business, and asked on that ground if I could carry the "Pictorial Review."

Q. Stating to them you did not want to handle the "Pictorial Review" through boys?

MR. WELCH: I move to strike out that testimony just given by Mr. Daly.

MR. DALY: Strike that out, then.

By MR. DALY:

Q. What happened? What reply did you get about it?

A. They got a reply which refused absolutely to let me handle the "Pictorial Review."

Q. You still kept on handling it?

A. I wrote to them and told them I must continue to handle it.

Q. Were you not visited by representatives of the Curtis Publishing Company with reference to this?

A. Yes, sir.

Q. By whom?

A. First by Mr. H. O. Nichols, acting for the Curtis Publishing Company, right after the exchange of the letters, and later by Mr. Smith and Mr. Adamson, for the Curtis Company.

Q. Who was the first one that saw you of these three gentlemen?

A. Mr. H. O. Nichols was the first to visit me.

Q. Where does he reside?

A. He is somewhere in France at this time.

Q. At that time where was he?

A. He was the agent at Colorado Springs.

Q. What was his statement to you?

A. That I must follow the dictates of the Curtis Publishing Company or my agency would be immediately transferred.

Q. About what time was this?

A. I believe this was about the month of April or March that he called.

Q. Did he call more than once to see you?

A. He visited me twice and we had a conversation over the long distance and a telegram or so, and a letter or so.

Q. Who was the next representative that saw you?

A. Mr. Adamson came in the territory out there, and he took—he did not say anything to me about this until he was in the company of Mr. Smith, though.

Q. Was Mr. Smith along with him at that time?

A. Mr. Adamson visited me, and while saying nothing about the "Pictorial"——

Q. During what period was that?

A. He came during the early part of June.

Q. He said nothing during that period about the "Pictorial Review"?

A. Nothing whatever.

Q. When did Mr. Smith come along, or Adamson?

A. He came along around the 20th of July, 1917.

Q. Did you hold a conversation with them in reference to handling the "Pictorial Review"?

A. Yes, sir.

Q. What did they say to you about it?

A. They stated that the company was giving us the choice between handling "Pictorial" and the Curtis publications; that we had to discontinue one or the other.

Q. That was what month?

A. In July, 1917.

Q. July, 1917?

A. Yes, sir.

Q. Did you still continue to handle it?

A. Yes, sir.

Q. And up until this time, and still do handle it, do you not?

A. Yes, sir; I still handle the "Pictorial Review."

Q. Have you given the figures of the "Post"—of "The Ladies' Home Journal," rather, during that period?

A. Yes, sir.

Q. You have given me them, have you?

A. Yes, sir; from May up until December—the December issue.

Q. From May to December?

A. Yes, sir.

Q. Will you give me, if you have them, the figures corresponding to them for the "Pictorial Review" during the same period?

Mr. Welch: Now, I object to this. It is entirely improper, irrelevant and immaterial—the question of figures for the "Pictorial Review" circulation between May and December, 1917.

Mr. Daly: Now, Mr. Examiner——

Mr. Welch: What possible bearing have those figures on this case at this time?

MR. DALY: I will tell you the bearing they have if you will permit me.

MR. WELCH: Very well.

MR. DALY: The bearing is this, Mr. Examiner—and I think it is perfectly admissible—there has been a lot of testimony in this case by the respondent to this effect, that they gave permission, at times, to certain magazine wholesale dealers, and at other times they would not give permission because of the fact that these men were not equipped to handle other magazines; in other words, they were loaded with magazines, and they could not efficiently handle the Curtis publications. Now, we want to show, by this man, that in his case, he handled a large number of magazines and he covered a large number of retailers, both in Denver and out of it, and that that contention is not true in all cases as these magazines went along side by side. They both—I do not know exactly what these figures will show—but probably both will show an increase as they went along. To that extent, at least, it is admissible.

MR. WELCH: It certainly is not in rebuttal of anything we have put in, to put in the figures of the "Pictorial Review" circulation in one city for the few months following the time that they left the News Company, and I cannot see that it is in any way admissible or proper proof in this case now. There has not been anything brought out by us which would give a basis for such figures. I object to this very strenuously on the ground it is not in rebuttal of anything that has been given and has no bearing on the case. Mr. Daly's statement as to the claims of the respondent and the reasons why they refused permission to the "Pictorial Review" is a very limited statement. The reasons,

as you know, Mr. Examiner, are various. Various reasons have been assigned by Mr. Douglas, not only relating to the payments of cash and the boys' organization, but on account of the objectionable methods, and on account of misrepresentations made to the Curtis district agents, the breaking down of the morale, inducing Curtis agents to deceive the Curtis Publishing Company, and entering into secret agreements and matters of that kind, but also the fact that these wholesalers cannot handle both magazines properly and exercise proper supervision over the boys.

EXAMINER MOORE: Have you anything further to say, Mr. Daly?

MR. DALY: That is all I have to say.

EXAMINER MOORE: Objection overruled.

MR. WELCH: I take an exception.

By MR. DALY:

Q. Will you give those figures for that period?

A. The May issue we handled 2509——

MR. WELCH: Just give that again, please.

THE WITNESS: The May issue of 1917, we handled 2509; June issue, 2536; July issue, 3265; August issue, 2418; September issue, 3243; October issue, 3781; November issue, 4272, and December issue, 3664.

By MR. DALY:

Q. Now, during that period, did you take on—I am speaking of the period you testified about, from November last, when you quit, and during the time of your contract—did you take on "Every Week," or were you asked to take it on?

A. We had been carrying "Every Week" out from the very time it commenced its existence, as we had had it first and then it was in the hands of a friend of mine.

Q. What is that—I did not hear that last?

A. We had been carrying "Every Week" in a way ever since it was in existence.

Q. When did it come into existence?

A. It came into existence in March, I believe, of 1916.

Q. You took it on then?

A. I took it on and gave it up at the instance of the Curtis people, and it was handled by a man that I knew, you know, pretty well.

Q. You took it on—did the Curtis Publishing Company object to your handling that?

A. Yes, sir.

Q. And then what did you do?

A. Well, I gave it away.

Q. You kept in touch with it, however?

A. I knew where it was; yes.

Q. Now, then, how about "Collier's"—did you handle "Collier's" during any of that period?

A. Yes, sir, I handled "Collier's."

Q. When did you begin handling "Collier's"?

A. I cannot say as to the date; it has been three or four years——

Q. About when?

A. I should say 1912. That is a guess.

Q. 1912 is before you entered into this contract we have talked about, or was it after that?

A. It must have been after that, then. I know it has been three or four years, but I could not say just when it broke.

Q. How did you handle "Collier's Weekly"?

A. Distributed through the stores and sold to anybody who wanted it.

Q. You mean stores—you speak of retailers?

A. Yes, sir.

Q. Did you let the boys have it whenever they wanted it?

A. If the boys asked for it, we sold it to them.

Q. Did you ever try to push the sales of "Collier's" through the boys?

A. To some extent, at times, but we were criticized for it, you know.

MR. WELCH: I do not want to raise unnecessary objections, but I do not like the statement "we were criticised for it."

By MR. DALY:

Q. You mean they objected?

A. They had objection to it.

MR. DALY: Strike out the word "criticised."

By MR. DALY:

Q. You mean the Curtis Company objected?

A. They raised the question once, and we were warned from time to time about doing boy business on any other magazines, not particularly referring to "Collier's."

Q. Were the Collier Company desirous of having you handle through the boys?

A. They seemed interested; yes, sir.

Q. I will show you a letter of April 24, 1917, addressed to you, Mr. Sanborn, from "Collier's Weekly." Will you look at that letter, and I ask you whether you received that from them with reference to it.

MR. WELCH: Wait a minute. What was the date?

MR. DALY: April 24, 1917.

THE WITNESS: Yes; I had that letter.

By MR. DALY:

Q. Of April 24, 1917, a letter soliciting business. I show you a letter, also, dated May 11, 1917, on the same subject, from "Collier's"?

A. Yes; I had that one, too.

Q. I show you letters, also, dated July 13, 1917, from the same party; one of July 23, 1917; July 27,

1917; August 8, 1917; April 2, 1918; February 21, 1918; January 30, 1918, with reference to the distribution of their magazines through you, and with reference to that whole subject.

MR. MILBURN: What was the date of the discontinuance of your Curtis agency?

THE WITNESS: We received the notification about the 20th of November, 1917. That made the agency terminate just before Christmas.

MR. WELCH: Now, Mr. Examiner, there are some letters here that were written to this witness by Mr. Smith, of "Collier's," during the time that he was a district agent of the Curtis Company, and three letters written after the date.

MR. DALY: For the present, I withdraw those after the date, Mr. Welch.

MR. WELCH: Of course, we object to this. As to the letters that were written him during the time that he held the agency, we object to these letters, unless his letters to which these letters—some of them seem to be a reply—are also produced and put in evidence, to make a consecutive, clear story. For example: "I have your very interesting letter of April 17th, with reference to the Curtis proposition."

MR. DALY: We will ask for those letters.

MR. WELCH: And so, therefore, we object to these, without the letters—Mr. Sanborn's letters, which are referred to in some of them.

MR. DALY: We will make the application to the Collier's Company for these letters.

By MR. DALY:

Q. Did you keep copies of the letters you wrote?

A. No, sir; at that time I wrote in long hand, so I did not keep carbons.

Q. And, of course, you kept no copies?

A. No—too hard to.

MR. MILBURN: Is Mr. Smith here?

MR. SPIESS: No.

MR. WELCH: Here is one of July—"Note what you say about working through boys."

By MR. DALY:

Q. What were you writing about?

A. Of course, I don't exactly recall, but he used to write to me about the boys, and I would write back.

Q. And tell him what you were doing?

A. Yes; and tell him I could do something, probably.

MR. WELCH: I move to take that all out of the record.

MR. DALY: Yes, take it out.

MR. SPIESS: Just have those marked for identification.

MR. DALY: I ask that these be marked for identification. They are not to go in the record.

(The letters referred to were thereupon marked "Commission's Exhibits Nos. 221 to 226," inclusive, for identification.)

By MR. DALY:

Q. Now, you state that you handled these magazines through boys, somewhat. Could boys handle "Collier's"?

A. Pretty well. They seemed to like to sell them, pretty well.

Q. And, since the time of your giving up the Curtis publications, what have you done about boys?

A. We have still boys, about the same as before, in lesser degree.

Q. Your own boys?

A. These boys sell their magazines and sell ours.

Q. What do you mean by "these boys"?

A. The boys that come in to us generally sell their magazines, too.

Q. About the boys you had: Did you turn them over to the new agent?

A. They had all of the records, and we directed the boys to their place, for several weeks.

Q. You still have some boys?

A. About a hundred on our list.

Q. Have you offered any prizes to these boys?

A. We give little prizes.

MR. WELCH: I object to this. This hasn't anything to do with this case, Mr. Examiner—what this man, after the Curtis people took the business away from him—what he is doing with respect to his business, and other magazines. I cannot see any connection whatsoever in this case, and I object to it.

MR. DALY: I do not suppose it is anything very wonderful, but Mr. Milburn frequently asked the question through the record—asked certain witnesses, according to my recollection, whether any other publications had offered prizes.

MR. MILBURN: To Curtis agents. There has not been anybody on the stand that was not a Curtis agent, except Mr. Sanborn.

MR. DALY: You have asked the question whether they knew any one else.

MR. MILBURN: I asked the Curtis agents if other publishing houses gave out prizes through them.

MR. DALY: That is my recollection of his testimony. I am going on that theory.

By MR. DALY:

Q. While you were a Curtis agent, then, did "Collier's" offer prizes to boys?

A. They had no definite prize offers, at that time. They gave us bags at one time, and that is about all.

Q. Did you have contests among the boys, at that time, for "Collier's"?

MR. WELCH: I object to leading the witness. He says that is about all.

MR. DALY: This is contests. This is something. Did you have contests among the boys for "Collier's"?

THE WITNESS: No, we had no definite contests at that time.

By MR. DALY:

Q. Contests since that time?

A. Since then we have.

MR. WELCH: Now, wait a minute. I object to any testimony as to what took place after this man ceased to be a Curtis agent.

MR. DALY: We have got a right to show "Collier's" were practicing the same thing.

MR. WELCH: No, they were not practicing the same thing, while this man was a Curtis agent.

MR. DALY: It does not make any difference, if they are doing it now.

MR. WELCH: I object to it.

EXAMINER MOORE: Objection sustained.

MR. WELCH: I ask to strike the answer out, if there is any answer there.

EXAMINER MOORE: Strike it out.

By MR. DALY:

Q. Now, did you handle, during this period—speaking of the period you were under contract—the publications of the International Magazine Company, otherwise frequently called in these records the Hearst magazines?

A. Yes, sir.

Q. How did you distribute them?

A. Through dealers, and, to some extent, through boys.

Q. And you had communications with them, did

you, with reference to their method of distribution—the method you were using?

A. Yes, sir; they wrote to me several times about the boy sales.

Q. Will you look at a letter dated August 22, 1917, from that company to you, and a letter dated November 20, 1917, addressed to you by that same concern? Did you receive those letters?

A. Yes, I received those letters.

MR. WELCH: I notice, Mr. Daly, the letter starts off by stating: "We are sending the boys in your town whose names we list at the bottom of this letter," etc.

MR. DALY: Yes.

THE WITNESS: There is a name or two at the bottom. That is all the list they sent.

By MR. DALY:

Q. Did you send in the list to them?

A. No.

MR. WELCH: He says they sent him the list.

MR. MILBURN: The only list is one boy.

MR. WELCH: I want to know whether there was any list enclosed in the letter.

THE WITNESS: No; that was the extent of the list, that one boy's name, but that is the way they opened the boy subject.

MR. WELCH: We have no objection.

MR. DALY: We offer those letters.

MR. WELCH: Mr. Stenographer, I wish you would leave all of the exhibits here.

(The letters referred to were thereupon marked by the stenographer "Commission's Exhibits Nos. 227 and 228.)

By MR. DALY:

Q. You state you were called upon by certain representatives of the Curtis Publishing Company?

A. Yes, sir.

Q. Now, I am not sure what you said about what they said to you. Did Adams and Smith talk to you about handling "Pictorial Review"?

A. Yes; at the time they were at Denver together, and took this up with me. They met me in Mr. Smith's room at the Savoy Hotel, I believe, and told me that I must take my choice between the "Pictorial" and the Curtis, and that I would possibly be apt to lose other publications as well.

Q. What ones did they refer to?

A. They mentioned specifically the "Collier's" and the Hearst publications.

Q. Did you make any inquiry from those companies?

A. I wrote, that same evening or the next morning, asking these companies if they would stand by me in case I lost the Curtis publications.

Q. Have you those letters here?

A. I have not the letters I wrote to them, but I had the letters in reply.

Q. I hand you a letter dated July 21, 1917, and ask you if that is a reply that you received from the Hearst magazine people with reference to this subject?

A. That is the one.

MR. DALY: We offer that.

By MR. DALY:

Q. Did you write to "Collier's" as well?

A. Yes, sir.

MR. WELCH: I object to this letter. This letter starts out by saying: "Replying to your letter of the 18th," and then refers to representatives of other publishing companies. I object to this evidence, on the ground that the letter to which this is a reply is not produced here; and, secondly, that this has absolutely nothing to do with this case, a question of correspondence be-

tween this witness and the "Chicago Examiner," the circulator of the Hearst publications; absolutely immaterial as to what action the Hearst publications might take in certain instances, and the letter to which it is a reply is not produced.

MR. DALY: Well, just withdraw that. Now, that is all I want to ask Mr. Sanborn. Of course, we will try to produce that correspondence.

MR. WELCH: I shall want Mr. Sanborn here, to examine him on that correspondence, too.

MR. DALY: All right.

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Sanborn, you started to handle the Curtis publications in 1912—1911 and 1912—did you not?

A. I am not sure of the year, but it is about six or seven years back.

Q. You took over the business of a man named Greenbaum, did you not?

A. Yes, sir.

Q. And, at the time you took over Greenbaum's business, he handled only Curtis publications; is that a fact?

A. Yes, sir.

Q. No other magazines?

A. Not that I know of, now.

Q. And when you started in the magazine business as a wholesaler you wholesaled only the Curtis publications?

A. Yes, sir.

Q. That is a fact?

A. Yes, sir.

Q. What was the first magazine you took on wholesale, after the Curtis publications?

A. We took on the—what was known as the pub-

lishers' news magazines, then—"Everybody's," and so forth.

Q. What was the first magazine that you took on that you are now handling, after the Curtis publications?

A. I believe the "Collier's" was the next.

Q. You wrote to the Curtis Publishing Company, I suppose, and got permission, did you not, to handle "Collier's"?

A. Yes, sir.

Q. Do you know when that was?

A. No, I would not recollect.

Q. About what year?

A. It was about the time they started "Collier's," which was about—must be three or four years ago, now, at least.

Q. Then you got permission from the Curtis Publishing Company to handle some of the other magazines that you are now handling?

A. Yes; at times I got permission.

Q. You got permission for "Pearson's," did you not?

A. I cannot be positive, but I think I did.

Q. You are quite familiar with the provisions of the clause in the contract which requires you to ask permission before taking on other magazines wholesale?

A. Yes; I had a great deal of trouble with it.

MR. WELCH: Now, I move to strike that out. I asked if you were quite familiar with it.

THE WITNESS: Yes, sir.

By MR. WELCH:

Q. You took on "Pictorial Review" at wholesale in May, 1917?

A. No; I commenced with the—I think it was the March issue—two issues sooner, anyway.

Q. You commenced to wholesale it before they left the American News Company?

A. Yes; I commenced to wholesale it as soon as they would furnish it to wholesalers.

Q. Was that the March, 1917, issue?

A. I believe it was, and the May issue—I handled two issues, I am quite sure.

Q. Did you handle the March and April issues in 1917 of "Pictorial Review" to retailers in Denver?

A. In certain cases, yes—stores not supplied by the American News or by the "Collier's" news company there.

Q. Then, in May, 1917, you distributed to all of the retailers?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. And you did not ask the Curtis Publishing Company's permission to do that, did you?

A. I sent for permission, about the time I took out the May issue, as I remember.

Q. Did you not testify on direct examination that you did not ask their permission?

A. I wrote to them and asked permission, is the way I testified, I believe.

Q. Then they refused to give you permission?

A. Yes, sir.

Q. Now, when you took over this agency from Greenbaum, about 100 to 150 boys were turned over by him, were they not?

A. If I remember right, about that number.

Q. And those boys were, of course, handling only the Curtis magazines?

A. I could not say. They might have been handling other things.

Q. Well, you were handling only the Curtis magazines?

A. Yes, sir.

Q. And they were only handling Curtis magazines, so far as you knew anything about it?

A. Yes, sir.

Q. And, so far as your relations with them were concerned?

A. Yes, sir.

Q. And at the time your contract with the Curtis Publishing Company was terminated, you had between 250 and 300 boys?

A. About that; yes, sir.

Q. And those boys had been obtained through the efforts of the Curtis Publishing Company, by advertisements, and through the efforts of their roadmen working with you, had they not?

Q. How, otherwise, were they obtained?

A. Well, at one time I started probably fifty boys, by simply going in, personally, to the public schools and talking to the boys about selling magazines, before and after school.

Q. Who suggested that to you?

A. I don't recall as anybody in particular suggested it to me. I wanted to get the boys.

Q. Who put the idea in your head to go to the public schools?

A. Well, I don't think anybody did.

Q. Did Curtis's roadman ever suggest to you to go to the public schools?

A. I don't believe so.

Q. Was that your own idea?

A. Yes, sir; we wanted to get branch stations throughout the city, and I wanted to visit the schools to start them.

Q. What did those boys handle?

A. What are they handling now?

Q. What did those boys handle when you got them?

A. In some cases I started them on "Every Week" and in some cases they started on "The Saturday Evening Post," and sometimes I gave them "Collier's," if the free copy offer was in effect at that time. I am not sure about that; and I gave them a chance to try the others, too.

Q. Tried what others?

A. At that time——

Q. You mean other magazines?

A. Other magazines we had for sale; yes, sir.

Q. Now, you had various meetings of these boys in your Ten Club?

A. Yes, sir.

Q. That was organized by the Curtis Publishing Company, was it not?

A. They suggested its organization.

Q. The roadmen worked with you from time to time on the Ten Clubs?

A. They attended meetings at times.

Q. And the Curtis Publishing Company paid, generally, the expense of those meetings?

A. Partly, yes. They paid me so much for each member.

Q. Now, you say that you paid some of the expenses of those meetings?

A. I did; yes, sir.

Q. Did you ever ask to be reimbursed for any of that expense?

A. They had the understanding that I was to get a certain sum for each club member, and that was all I could get, and I entertained the boys as best I could, and used that as far as it went.

Q. As a matter of fact, the entertainment resulted in some sort of bonus coming to you, in the long run?

A. If I developed those boys into League members, I got extra payments; otherwise not.

Q. Now, these boys that you got from time to time you say you started—you say you had them sell all the magazines that you handled?

A. If they wished to; yes.

Q. Did that amount to a very large number of sales?

A. No; it was quite scattered, because I did not dare put any promotion work on it.

Q. You did what?

A. We were not supposed to put any promotion work on with the boys with other magazines, and I did not dare do it very much.

Q. Well, these boys that you had, never handled the magazines of any other company except the Curtis Publishing Company save in isolated instances—just a few instances?

A. No, sir; that is not true.

Q. What is the truth about that?

A. If we had a hundred boys come in, say, on Thursday morning in our station, maybe one would ask for a copy of "Collier's" and possibly another of "All Stories," and one might have three or four customers for that or another magazine, and maybe all except half a dozen boys would have other customers for something.

Q. That is, as I understand it, then, those magazines of the other publishers than Curtis would be given to those boys as they would come to you and simply ask for one or two copies?

A. Yes; and sometimes the parents would come and ask for a list of the magazines we handle, so that they could get other magazines.

Q. That is, a particular boy would ask for a particular magazine, and that particular boy would take that particular magazine out?

A. Yes, sir.

Q. Did these boys start out in the morning with

a batch of other magazines than Curtis magazines for sale?

A. They would often carry an extra copy and hunt up a customer.

Q. One extra copy of a particular magazine for a particular customer?

A. No, sir; they carried it in case they would meet a customer who wanted it. A number of our boys would also go to the News Company and hunt outside publications, and do yet.

Q. Mr. Sanborn, that letter (handing paper to witness) written by you to the Curtis Publishing Company on February 20, 1917, correctly states the situation in regard to boys, does it not?

MR. DALY: Is that in evidence?

MR. WELCH: No.

THE WITNESS: That states it pretty correctly; yes, sir.

MR. WELCH: I offer that.

MR. DALY: There is no objection.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 48," and, by direction, the same copied into the Record at this point, as follows:)

RESPONDENT'S EXHIBIT No. 48.

"REPLY SHEET

Please write your reply below for a prompt adjustment of the matter referred to. Do not return the original letter. Retain the original for your future reference.

Curtis Publishing Co.
Philadelphia.

Dears Sirs:

Occasionally one of the boys buys a Colliers, for his father or some customer who also wants

Colliers but there is no organized sale.

We could not well refuse scattering sales since we sell to all other people.

In two or three cases boys buy 3 or 4 copies.

It is only fair to the Collier people to say that on the one or two occasions they mentioned boy sales they stated they did not think well of boys engaged in selling other publications or newspapers.

Respectfully,

HAROLD SANBORN."

By MR. WELCH:

Q. That situation you outlined there with respect to selling "Collier's" through boys is the same situation that applies to selling other magazines which you handled through boys other than the Curtis Publishing Company's magazines?

A. It was quite a deal like that. Of course, we could not put up prizes for them.

Q. Was this not the same with respect to boys handling other magazines—the same as you outlined in that letter that I have put in evidence?

A. Very similar; yes, sir.

Q. They handled them to about the same extent?

A. About that; yes, sir.

Q. Now, Mr. Sanborn, after some years had gone by, you had a great many magazines which you were handling wholesale?

A. Yes, sir.

Q. And then, along about 1916 or 1917, you commenced to have some trouble with the Curtis Publishing Company on your returns, did you not—you were late on your returns?

A. We had a system where we had collected——

Q. Just answer that first. Were you not late in sending your returns to the Curtis Publishing Com-

pany, in accordance with the time mentioned in the contract?

A. We were late in accordance with the time they set.

Q. And they called your attention to that and objected to it—is not that a fact?

A. Yes; but I would like to explain that.

MR. DALY: When was that?

MR. WELCH: I will let him explain the whole thing. I want it as much as you do, Mr. Daly.

By MR. WELCH:

Q. Is not that a fact—they objected to it?

A. Yes, sir.

Q. And you stated the reason?

A. Yes sir.

Q. I would like to know the reason.

MR. DALY: When was this?

MR. WELCH: In 1917, between the first of the year and November or December of 1917.

THE WITNESS: In the first place, they had cut down somewhat the limit in which we could turn in our returns. When we first commenced, if we got them in twice a month—in fact, three weeks was sufficient.

By MR. WELCH:

Q. A great many years ago you made that arrangement, was it not?

A. That was the first couple of years. Then they informed us if we had them in three weeks from that date——

Q. That was about four or five years ago that they made that change?

A. Even those last few months, they told us if we had the returns in three Saturdays from the date of issue they would be acceptable, and we aimed to get them in that time, but last year you perhaps know the

railroad service and postal service and everything was considerably upset and sometimes there would be shipments seemingly two or three weeks on the way—not quite that long, but quite a long time.

Q. Was that the fact that you could not get your returns back in time because you had so many dealers you had to go to so many outlying districts that you could not cover them all in time to make your returns promptly?

A. Not entirely so——

Q. Is not that one of the reasons——

A. Not exactly.

Q. (Continuing)—that you were supplying so many dealers you could not get around in a week's time, but you had to make your visits in alternate weeks?

A. We made our visits in alternate weeks, but it was not due to the load of magazines we carried.

Q. Now, Mr. Sanborn, you stated in your direct examination you had plenty of time to handle as many magazines as might come to you, did you not?

A. Yes, sir.

Q. I show you a letter written by you to the Curtis Publishing Company, dated September 25, 1917, and ask you if that letter does not bear upon the question of the amount of work you had upon your hands, and I offer it in evidence.

A. It has bearing on that in just the way I say it in there—it is double the work and expense.

MR. WELCH: I offer that in evidence.

MR. DALY: We have no objection to the letter.

EXAMINER MOORE: The letter is received in evidence.

MR. DALY: I presume there was some letter going with this, was there not?

MR. WELCH: It does not refer to any. I do not know whether there was or not.

(The letter referred to was thereupon received in evidence and marked by the stenographer "Respondent's Exhibit No. 49," and, by direction, the same is copied in full in the Record at this point, as follows:)

RESPONDENT'S EXHIBIT No. 49.

"Denver, Colo. 9/25/17.

Curtis Publishing Co.,
Philadelphia.

Dear Sirs:

We note that you refused credit on 164 Posts and 6 Gentlemen of 8/25/17, reported received on 9/18.

These returns were forwarded on Sept. 10th so they were a long time getting there.

It is trying to have to fight for credit for our returns when we have been keeping them so close and rushing to get them off early.

Denver has about 300 dealers scattered impartially over a city over ten miles each way. Our outer districts are collected on alternate weeks, the north & east side one week & the south & west on the next. It takes three or four days for I and 2 assistants to make the rounds of these places since we must devote most of Thursday to the Post boys & most of Saturday to adjusting supplies for over Sunday.

To get the returns in by the time your rules request would throw our whole scheme of business out of kilter since dealers in the business district where we collect weekly desire to hold some copies over till the next week & make many sales by so doing and on the outside districts it would double our work at an expense we could not stand to have to collect every week over all this territory.

Our delivery is at night to prevent premature sales so we couldn't pick up them.

Even our boys have many returns on the second Thursday that would be too late to get there in time. It would be a tremendous hardship to have to attempt the changes required after working out a satisfactory system for 4 or 5 years.

Yours truly,

Harold Sanborn."

By MR. WELCH:

Q. Now, you gave figures on the sales of the "Journal" from May to December, 1917. You gave as the figure for May on the "Journal," for the year 1917, 4192 and then the following months up to December, 1917. Were those figures which you gave the net sales?

A. Yes; those were the net sales.

Q. Now, is it not a fact that October and November and December are usually the big months in the magazine year, for sales?

A. September—starting September, it is pretty good.

Q. Starting with September, September is the big month?

A. Yes, sir.

Q. And that runs through October, November and December?

A. Sometimes it is not so good in November.

Q. Now, is it not also a fact that in October, November and December of 1917, there were large bonus offers on the "Journal"?

A. Yes, sir.

Q. And that you made special efforts——

A. We put forth our best on those, the same as every other issue.

Q. There were no bonus offers on the other months?

A. Yes, in July there was a bonus too.

Q. That was one of the other months?

A. I think there was a bonus offered through most of the months from July to December—probably not in all the months.

Q. In July you had a big boy meeting?

A. Yes, sir.

Q. That all helped?

A. Yes, sir.

Q. There was a particularly active campaign in July, and there was this bonus offer in July, October, November and December?

A. Yes, sir.

Q. Is that the fact?

A. Yes, sir.

Q. Have you the figures showing the net sales of the "Journal" from May, 1916, to September, 1916?

A. Yes, sir.

Q. You have those with you?

A. Yes, sir.

Q. Now, will you give the corresponding sales of the "Journal" from the period from May to December, 1916?

A. Yes, sir; May, 1916, 4044; June, 4067; July, 3810; August, 3692; September, 4086; October, 4170; November, 4241, and December, 5130.

Q. Have you any figures for the "Post" for November and December, 1916?

A. No, sir; I believe I have not.

Q. Or for "The Country Gentleman"?

A. I had November, 1916. I gave those.

Q. You did give those?

A. Yes, sir.

Q. Now, you gave the figures showing the sales of the "Pictorial Review" from May, 1917, to December, 1917, and I ask you now were those figures the net sales?

A. I think those were the drawings.

Q. You think those were the drawings?

A. Yes; those were the drawings.

Q. In other words, they were not the net sales?

A. No, sir.

Q. What were the net sales for the "Pictorial Review"?

A. I have not the figures for the net sales, but the returns were within ten per cent.

Q. What were the figures for May, 1917?

A. I have not the figures at all. I was only asked to have figures for the "Pictorial" drawings.

Q. Have you anything showing the amount of returns for June, July, August, September, October, November or December, 1917, on the "Pictorial Review"?

A. In quite a number of those times, we did not have any returns.

Q. What times did you not have any returns for?

A. I cannot say as to the months.

Q. What is that?

A. I cannot say as to the months, but I know we only returned two or three times out of that period.

Q. What did you do with the copies that were left unsold with the dealers?

A. We had very few.

Q. What did you do with the few you had?

A. We had a bonus offer under which we guaranteed a certain sale, and those that were left, we lost on.

Q. A bonus offer from whom?

A. The "Pictorial Review."

Q. And you guaranteed a certain sale?

A. I guaranteed to take so many with no returns and thereby get a bonus.

Q. What did you do with the unsold copies you had?

A. Well, we did what we say "ate" them.

Q. Figuratively speaking you ate them?

A. Yes, sir.

Q. And literally speaking, you threw them away?

A. Yes, sir.

Q. Did you sell them for waste paper?

A. Yes, sir; probably did that——

Q. Did that apply to May, June, July, August and September, and all those months?

A. Not every month. There were certain months we took up a certain definite offer which they would make agents.

Q. Which of those months did you take a guaranteed number and have this bonus arrangement?

A. As I say, I cannot be positive of any definite month. There were only two or three times we returned any. I think in June we did and I think in August we did.

Q. You mean there were two or three times you returned them, because there were only two or three times you had a return arrangement?

A. We could return any months in which we did not take up a special proposition.

Q. What months did you not take up a special proposition?

A. I cannot recall.

Q. Did you have a special proposition when you first took it on, for the issue of May, 1917—do you remember that?

A. I cannot be positive; no. All I can remember is that we had only occasion to send returns two or three times, first because we had only very few left, and secondly, because we had these offers.

Q. Then, out of how many of the eight months did you have this special arrangement by which you

guaranteed certain sales—there were eight months we are talking about?

A. I should say four or five or possibly six times.

Q. What did you have to do in conection with those magazines?

A. The arrangements differed each month at different times, but generally we guaranteed to take so many copies and to have no returns—sell them out clean and obtain a clean sale and we would have a certain bonus given us.

Q. How was that bonus regulated?

A. Well, they might say, "If you will take 200 extra copies of the August issue and obtain a clean sale, we will credit your account with fifty dollars"—possibly something of that nature.

Q. How much did that make the August issue, per magazine, cost you?

A. It would depend upon the number.

Q. You know, Sanborn, just about?

MR. DALY: I can not see what relevancy this line has. Of course, I am perfectly willing to give all of the facts.

MR. WELCH: I want to see. You put in circulation here, and I want to show this was not a circulation, in the figures he has given.

MR. DALY: That is not the cost per copy.

MR. WELCH: The cost per copy has a good deal to do with the way the arrangement was made. I submit he has brought out the circulation.

EXAMINER MOORE: Tell what you know, Mr. Sanborn.

THE WITNESS: Well, you see, I did not have the facts of any certain issue here. I just put down the drawings, and to go back six months, I could not tell the exact instance surrounding each offering, so I could not tell you what they would cost, or anything.

By Mr. Welch:

Q. But you do know if you, in a certain month—if you sold, for example, 200 copies over a certain figure, you received $50, or some figure of that sort?

A. I would be guaranteeing a certain net sale.

Q. I mean that you took. I don't mean that you sold. Did you ever figure out how much you paid the "Pictorial Review," as a result of that arrangement, for the copies that you took?

A. No; I had no object in figuring.

Q. Have you any idea how much you paid? You must know whether you paid six cents or five cents or nine cents, as a result of that arrangement, do you not?

A. Well, in every case it averaged several cents a copy. Probably only a cent or two less than the regular price on the total drawing.

Q. Now, you handled "Every Week," you said, too?

A. Yes, sir.

Q. When did you give that up?

A. We gave it up—just how do you mean that question? We gave it up several times.

Q. How did you give it up the first time after March, 1916, when you said you took it on?

A. The Curtis Company objected to it, and there was a gentleman in our office that was more or less connected with me, that had a separate business of his own, and I gave it to him and he sold it outside of my office, and he kept the profit from it.

Q. Did he handle it? Did he have a place in your office?

A. He had headquarters in our office, but he had a separate place for the "Every Week" sales, throughout most of the time.

Q. But the "Every Week" consignments came to him at your office?

A. Yes.

Q. And they were distributed from your office?

A. No.

Q. If they came to your office, they must have gone out of there, did they not?

A. Well, we shipped them down to a corner newsstand, for instance, where somebody sold them for him there. We simply had them in our office, and he put them out in another place.

Q. Now, this letter which is put in evidence, addressed to you from the International Magazine Company, of August 22, 1917, "Commission's Exhibit No. 227," from the Hearst people, enclosing a list of one boy; that was the first time that the Hearst people suggested any distribution of their magazines through boys, was it not?

A. I am not positive, but I believe it was.

Q. Don't you know?

A. No, I don't.

Q. That is the first you recollect, at the present time, of any instance on the part of Hearst to get circulation through boys?

A. Yes, sir.

Q. Through boys or boy?

A. Yes.

Q. Now, in this letter of November 20, 1917, addressed to you, being "Commission's Exhibit No. 228," the International Magazine Company enclosed you thirty cards to distribute to boys for free copies. Did you distribute those cards?

A. Yes, sir.

Q. Now, you said that Mr. Adamson and Mr. Smith had a talk with you, and that, in substance, you must make your choice between "Pictorial Review" and the Curtis Company. What was the date of that conversation?

A. As near as I can recollect, it was about the 17th of July.

Q. Where was it?

A. It was in Mr. Smith's room in the Savoy Hotel. I am not exactly positive as to the date, but I think that was the date.

MR. WELCH: I think that is all, Mr. Daly.

MR. DALY: That is all. We will probably want to recall him about the letters.

B. A. McKINNON, was recalled as a witness on behalf of the Commission, and, having been previously sworn, testified as follows:

DIRECT EXAMINATION.

By MR. SPIESS:

Q. Mr. McKinnon, at the former hearing in New York, you were requested to produce certain figures, showing the number of magazines sold and the money received in certain territory, by the "Pictorial Review." Have you prepared that statement?

A. I have.

MR. SPIESS: This statement of Mr. McKinnon I will offer.

MR. WELCH: No; I object to that going in that way. He has his conclusions drawn in there. Ask him about each city, is the best way.

By MR. SPIESS:

Q. Now, Mr. McKinnon, I will ask you to read off those figures in the various cities, beginning with Pittsburgh?

A. The total receipts from the Pittsburgh territory have been——

MR. WELCH: Please go slowly. Get some dates.

By Mr. Spiess:

Q. What dates does this statement cover?

A. For the issues of May, June, July, August, September, October and November.

By Examiner Moore:

Q. What year?

A. 1917.

By Mr. Spiess:

Q. And the figures you are going to read off now, apply in all cities to those issues, except where noted?

A. Yes.

Q. Now, take Pittsburgh?

A. The total receipts from the Pittsburgh territory amounted to $1426.60, covering 13,810 copies.

By Mr. Welch:

Q. Covering how many copies?

A. Thirteen thousand eight hundred and ten. This figure is made up of the copies of May, June, July and August, at 9¾ cents each, and the September, October and November issues, at 11 cents each. All of the money in the Pittsburgh territory has been collected. There are no outstanding bad accounts.

Q. How much?

A. The expense for the same period was $1850.68. I understand Mr. Welch objects to these conclusions.

By Mr. Spiess:

Q. Just put in the figures.

A. In Syracuse, the total income from that city was $473.48, in payment for 4846 copies at 9¾ cents. During that time our expenses have amounted to $109.95. Atlanta, total income for these months amounts to $705.81; net sale was 7239 copies; the expenses amounted to $437.79. Albany, net sales were 4079 copies; the amount collected was $397.71; the expense was $89.20. Bridgeport, 4319 copies sold, $421.11 collected; expenses amounted to $144.62. New

Orleans, 4144 copies sold; $246.37 collected; expenses were $157.67. St. Louis, 14,212 copies sold; $1385.68 collected; expenses were $150.53.

MR. SPIESS: Take the witness.

EXAMINER MOORE: Is that all now, Mr. Welch?

CROSS-EXAMINATION.

By MR. WELCH:

Q. Now, Mr. McKinnon, these figures that you have given change the figure that you gave in your direct examination, with regard to the expenses and receipts, and so forth, at these places?

A. So far as they are changed, I want to correct my former statement.

Q. These expenses that you gave at all of these places, in all of these figures, cover a period when you were first starting out to establish what you call your independent distribution?

A. Yes, sir.

Q. Now, at the various places mentioned, have you collected all of the sums that were due for the copies sold?

A. Yes, sir.

Q. You did not mention the price that you received at Atlanta for your 7239 copies?

A. Nine and three-quarters cents.

Q. What did you receive at Albany?

A. All of the places were 9¾ cents, with the exception of the Pittsburgh district.

Q. Now, I want to ask you, in connection with these amounts that you testified about on your direct examination. You were asked whether—I asked you about these same figures that you are now testifying about, whether these sums received applied to any sales for prior months. As a matter of fact, you did not have any sales of that character, prior to May, 1917, did you?

A. No, sir.

Q. And, therefore, these figures are amounts received from sales that commenced with the May issue?

A. That is right.

Q. And they do not relate to any sales that were made prior to May?

A. No, sir.

MR. SPIESS: Mr. Welch, if you will talk to him about sales made in May. May issue sales were made in April.

MR. WELCH: Mr. Spiess, we are getting along very nicely. He and I quite understand each other.

MR. SPIESS: I do not understand it, when you say these sales were made in May.

MR. WELCH: Well, for the May issue.

MR. SPIESS: Well, that is all right.

By MR. WELCH:

Q. But, on your direct examination, you were asked by Mr. Daly whether this was not sort of a running account, and that income that was given—cash received—covered a period prior to the May issue, and you said: "That is right." Now, you wish to correct that, do you not? The cash received in these months that you have given did not apply to any money due for any prior issue than the May issue?

A. That is right.

Q. And then if, in this testimony it appears that you made a statement that these amounts received applied to money due for any issue prior to the May issue that is incorrect?

A. That is incorrect. I misunderstood Mr. Daly as to that.

Q. Mr. McKinnon, the July, 1918, issue of the "Pictorial Review" states at the top: "Circulation, 1,500,000 monthly," does it not?

A. Yes.

Q. That is the present circulation of the "Pictorial Review"?

A. Yes.

MR. WELCH: That is all.

By MR. SPIESS:

Q. Is that the gross?

A. Yes.

Q. That is not net?

A. No.

MR. SPIESS: That is all.

EXAMINER MOORE: You are excused, Mr. McKinnon.

MR. MILBURN: Mr. Examiner, at page 4808 of the record, Mr. Daly has asked Mr. Douglas specifically to furnish a list of the district agents of the Curtis Company who wholesale Curtis magazines and other magazines, and the request embodies in it the figure 366. I have taken it up with Mr. Daly, and it is understood that that answer 366 was in response to another question, and this figure, when furnished, will not be 366, because that number has not been computed, but will be when they get the complete list. I just wanted to clear up any possible misunderstanding.

EXAMINER MOORE: It is so understood. Is that all now, Mr. Daly?

MR. DALY: Just a minute. We are getting in touch with "Collier's."

MR. WELCH: We have some testimony.

MR. DALY: You can go right ahead.

EXAMINER MOORE: We want to finish up this afternoon, if we can.

MR. MILBURN: At another page of the record, Mr. Douglas stated that he would submit to the Commission the date when Mr. Moore, referred to in the testimony, was employed by the Curtis

Company, and that date is May 18, 1910, which, to a certain extent, corrects the impression he testified to at that time.

MR. DOUGLAS: At the Chicago hearing, Mr. Daly requested that Mr. Douglas furnish records showing sales in Terre Haute, Indiana, before, during and after a certain prize contest for district agents.

MR. DALY: Yes.

MR. MILBURN: Can you refer to the record page?

MR. DOUGLAS: I have not the page. This contest in question started with the issue dated February 20, 1915, and ended with the issue dated July 10, 1915, and the net sales before, during and after were as follows. This is "The Saturday Evening Post" only:

February 13th	1194
February 20th	1191
February 27th	1183
March 6th	1350
March 13th	1350
March 20th	1355
March 27th	1445
April 3d	1445
April 10th	1445
April 17th	1445
April 24th	1430
May 1st	1360
May 10th	1360
May 15th	1275
May 22d	1274
May 29th	1275
June 5th	1545
June 12th	1533

June 19th	1597
June 26th	2125
July 3d	2125
July 10th	2124
July 17th	2114
July 24th	2211
July 31st	1673
August 7th	1615
August 14th	1615
August 21st	1615
August 28th	1615

EXAMINER MOORE: Mr. Welch, do you want to call Mr. Adamson now?

MR. WELCH: Yes.

OSBORNE ADAMSON, was recalled as a witness, on behalf of the respondent, and testified as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Adamson, you have been sworn in this case and have testified in Denver, have you not?

A. Yes, sir.

Q. And you are the traveling representative of the Curtis Publishing Company who had charge of the district that embraces Denver, I think, during the summer of 1917?

A. Yes, sir.

Q. Did you have any conversation with Mr. Sanborn, who has just testified, during the month of July, 1917?

A. Yes, sir.

Q. You heard him testify just now, did you not?

A. Yes, sir.

Q. Will you state what that conversation in substance was?

A. The conversation was with reference to——

Q. Who was present?

A. Mr. H. B. Smith, supervisor of the western division of the Curtis Publishing Company.

Q. Yes.

A. And we talked generally about the agency, and then gave Mr. Sanborn the choice of representing us or representing the "Pictorial Review."

Q. Now, did you hear Mr. Sanborn testify that you or Mr. Smith or both of you had said to him that in case he did not give up the "Pictorial Review" that he might lose "Collier's" and the Hearst's agency?

A. I heard him say that.

MR. DALY: Did he say that?

MR. SPIESS: He said he might lose other publications.

MR. WELCH: He mentioned "Collier's" and "Hearst's," as the other publications.

By MR. WELCH:

Q. He might lose other publications or whatever he testified to, you heard, in that connection?

A. Yes, sir.

Q. Did you or Mr. Smith make any such statements, in substance or in effect, to Mr. Sanborn at that time or at any other time?

A. No.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. SPIESS:

Q. When was this—in July, 1917?

A. July, 1917, about the middle of the month.

Q. And you told him he must elect which he would keep, "Pictorial" or Curtis?

A. It was up to him to select.

Q. In July, 1917?

A. Yes.

Q. And you heard it testified here that the roadmen of the Curtis Publishing Company had instructions not to make any changes up to November, 1917?

A. I do not remember those instructions—what date those instructions took effect.

MR. SPIESS: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Your general practice, about that time, Mr. Adamson, was not to make any changes, was it not, and not to speak about the "Pictorial Review" except in special cases where you had specific instructions?

A. Yes, sir.

Q. And this was one of those special cases, in view of special conditions, applying to that agency particularly?

A. Yes, sir.

MR. WELCH: That is all.

H. B. SMITH was recalled as a witness on behalf of the respondent, and testified further as follows:

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Smith, you have been sworn and have testified previously in this case?

A. Yes, sir.

Q. Do you recall a conversation with Mr. Sanborn, of Denver, who has testified today, at which Mr. Adamson was present, some time during the month of July, 1917, in Denver.

A. I do.

Q. Where was that conversation held?

A. In my room at the Savoy Hotel.

Q. Who was present?

A. Mr. Adamson and Mr. Sanborn and myself.

Q. Do you recall what was said at that conversation?

A. Yes, sir.

Q. Just state briefly what took place?

A. I gave Mr. Sanborn the choice of either dropping the "Pictorial" or discontinuing the "Pictorial" or discontinuing with us.

Q. Did you hear Mr. Sanborn testify that you or Mr. Adamson or both of you had said to him that if he did not give up the "Pictorial Review," he might lose other magazines, naming "Collier's" and "Hearst's"?

A. I did.

Q. Did you or Mr. Adamson make any such statement to him at that time or any other time, in substance or effect?

A. No, sir.

Q. Now, during that period, you had certain instructions from Mr. Douglas in respect to the various agents, did you not?

A. Yes, sir.

Q. Not to take up the matter of the "Pictorial Review"?

A. General instructions; yes, sir.

Q. Were there any exceptions to those instructions?

A. There were a few special exceptions.

Q. And those were cases where you acted under directions from Mr. Douglas?

A. Yes, sir.

Q. And this was one of those cases?

A. Yes, sir.

CROSS-EXAMINATION.

By MR. DALY:

Q. What instructions did you have, Mr. Smith, about this particular case?

A. As I recall my instructions, Mr. Sanborn had persisted, I believe, in handling both "Every Week" and the "Pictorial," and I was instructed to go there and clarify the situation and to have him either continue with us or continue with the other people.

Q. Were those instructions in writing—do you know?

A. I believe they were, but whether it was a telegram or letter I am not prepared to say.

Q. What do you mean by clarifying the situation —what situation?

A. Well, the fact that he was handling other publications contrary to our agreement.

Q. You had known he was doing that for quite a period of time?

A. Personally I did not; no, sir.

Q. You got around there in July?

A. I got there as soon as I could, after receiving the instructions.

Q. And that was because, as I understand your testimony, he was handling "Pictorial Review"?

A. Yes, sir.

MR. DALY: That is all.

RE-DIRECT EXAMINATION.

By MR. WELCH:

Q. Do you know anything in connection with the pushing of sales of other magazines than the Curtis Publishing Company's magazines, through boys by Sanborn?

A. I do in a rather indefinite way—well, perhaps in a definite way.

Q. You mean you knew it in a definite way?

A. Yes; I might say in a definite way.

Q. What is it you know?

A. I saw signs on the walls at his office at the time I was there offering, as I recall it now, an ice cream cone to a boy who would increase his sales.

MR. DALY: Is this in rebuttal? I object to this.

MR. WELCH: It is showing the reason why he made a special case of Mr. Sanborn, in the middle of the summer.

MR. DALY: He testified he made a special case, and went there to clarify that situation, as stated. I do not think it is relevant.

MR. WELCH: We want to show why this was made a special case.

MR. DALY: He said there were various cases —that is what Mr. Douglas said—of this character.

MR. WELCH: He said there were isolated cases.

By MR. WELCH:

Q. Did you find, Mr. Smith, that Mr. Sanborn was endeavoring to push the sales of any magazines through the boys?

A. I did.

MR. WELCH: That is all.

MR. DALY: That is all.

MR. WELCH: It is agreed that the following corrections be made in the testimony given by Mr. Roscoe Peacock in this case:

At page 3269, in answer to the question, "And if so, just state any correction you wish to make to your testimony," the answer should read:

"When I got back to Philadelphia I

looked up the letter of February 10th and found next (instead of 'annexed') to it in my file, a circular letter," etc.

At page 3270, the testimony should read, beginning after the words "which I regarded as being printed":

"I do not know whether it is printed or multigraphed, something of that sort, and I glanced at it very hastily, considering that it only contained a reiteration of the statement in pen writing, and paid very little attention to it," etc.

(Whereupon, at 5.30 o'clock P. M., an adjournment was taken until tomorrow, Wednesday, July 3, 1918, at 10.30 A. M.)

Federal Trade Commission
v.
Curtis Publishing Company.
} Docket No. 15.

New York City, July 3, 1918.

The hearing was resumed, at Court Room 2, Woolworth Building, at 10.30 o'clock A. M., pursuant to adjournment.

Before: CHARLES S. MOORE, Examiner.

Present: MR. A. M. DALY and MR. L. A. SPIESS, on behalf of the Commission.

Appearances: MR. JOSEPH W. WELCH and MR. JOHN MILBURN, JR., on behalf of the Curtis Publishing Company.

M. E. DOUGLAS was recalled as a witness on behalf of the respondent, and, having been previously sworn, testified as follows:

MR. WELCH: Mr. Daly, I want to ask Mr. Douglas to give a few more figures on the Denver circulation of the "Journal."

MR. DALY: There may be a great many elements entering into that, if the Court please. They may have advertised extensively, may have made extraordinary efforts. Conditions were not the same. They have a different man, and all that kind of thing, and all we were doing was making a comparison at that time, and showing there was a gradual increase in the circulation of this paper, and the other papers were not affected.

MR. WELCH: At the time you showed these figures there may have been other conditions, such as advertising and bonus offers.

MR. DALY: The claim all the way through was that they shut off people at times, because of the fact that they could not handle their business. We have shown that is not correct.

MR. WELCH: They have proposed to show by their figures that this taking on of another magazine did not interfere with the circulation of the "Journal" or the "Post," and we proposed to show that when we took the paper away from this man and put it in the hands of an independent man, it increased more quickly, and larger in increase, than when the man before handled it, at the same time that he handled other magazines. It is perfectly competent and proper testimony.

MR. DALY: It was after this agent was dismissed, and it is under entirely different conditions, and all that kind of thing.

MR. WELCH: Well, you showed all that kind

of thing, Mr. Daly, on your cross-examination, if that kind of thing exists.

EXAMINER MOORE: What is the purpose?

MR. WELCH: Sur-rebuttal.

EXAMINER MOORE: Let him answer it. Objection overruled.

MR. DALY: Of course, then, Mr. Examiner, we will have to put in the figures of the "Pictorial Review," after this situation is over. If you keep on with this kind of thing, I do not know where you are going to get off.

EXAMINER MOORE: As I understand it, it is a condition that cannot be helped.

MR. DALY: It is not in issue at all. Go ahead. I except to the ruling of the Examiner.

EXAMINER MOORE: Exception noted.

MR. DALY: Right here, I do not think there will be any objection to it, whenever I have made objections in this case, and I have been overruled, I desire to have exceptions entered. I do not think it is necessary in a proceeding of this kind.

MR. WELCH: I think both of us are entitled to exceptions.

EXAMINER MOORE: It is so understood by the Examiner.

DIRECT EXAMINATION.

By MR. WELCH:

Q. Mr. Douglas, it has been testified in this case that Sanborn, the district agent of the Curtis Company, formerly, ceased to handle the Curtis publications with the December, 1917, issue, and the testimony shows that the January, 1918, issue, and thereafter, has been handled and wholesaled through Mr. Neese, of Denver.

A. That is correct.

Q. He wholesales no other publication but the Curtis publications?

A. That, I believe, is correct.

Q. Have you the figures showing the sales at Denver by Mr. Neese, for the months beginning January, 1918, up to May, 1918?

A. I have.

Q. For the "Journal"?

A. For the "Journal," yes.

Q. Will you give those figures?

A. For the month of January, 1918, the net sale was 4843, an increase of 845 over the corresponding month of the previous year.

For the month of February the net sale was 3429, a decrease, due to our inability under transportation conditions to get the copies in there on time. There was a great deal of difficulty all that month. Copies did not get in there until long after the sale date, is my understanding.

The March number, net sale, 4488, an increase over the corresponding month of the preceding year.

April, net sale, 5736, an increase——

MR. DALY: I object to the increase——

MR. WELCH: That is all right, just the increase.

THE WITNESS: May, net sales, 5224.

By MR. WELCH:

Q. Have you got any later month than that?

A. It is impossible to give the net, any later than that, as the returns were not due in Philadelphia in time to compile the net—I mean prior to my coming over here.

Q. Have you any figures there on the other publications?

A. I have a comparison between the month of May, 1918, and May, 1917, on the "Post," net sales, that I can give for one month only.

3413

Q. You have not the corresponding figures on—you have not the figures on the other publications for these corresponding months?

A. Not all of those months, but I have on May, and that shows a substantial "Post" increase.

Q. What are the figures?

A. It is approximately 800 to 1000 increase. I will give you the figures. 1918, May, average weekly net of the "Post," 7977. May, 1917, average weekly net of the "Post," 7106. I have not any other "Post" figures.

MR. WELCH: That is all.

CROSS-EXAMINATION.

By MR. DALY:

Q. Then you have not been injured by the change in the agents in Denver; is that right?

A. We have been put, Mr. Daly, to some very considerable expense by repeated trips of roadmen necessary to secure the fulfillment of our agreements at that point.

MR. WELCH: You mean your agreement——

THE WITNESS: With the preceding agent.

By MR. WELCH:

Q. You mean before the change?

A. Before the change.

By MR. DALY:

Q. I am speaking, now, about the change, and not what trouble you had with Mr. Sanborn about putting in the new agent. What difficulties have you met with in that? You show an increase in your circulation, and it was a good thing for you to change. Is that what you want to contend?

A. Our situation now is that our circulations are better than they have been at any previous time in

our history, at the corresponding season of the year.

Q. And is the reason of that simply because that he is handling your magazines alone?

A. I would not say wholly that, Mr. Daly, but I think that has something to do with it.

Q. To what do you attribute this increase?

A. Possibly to attention—concentration upon our publications.

Q. Well, what else?

A. Well, there have been other factors that have entered into it.

Q. Now, name the factors.

A. The "Post" has been a strong seller this season, this spring.

Q. A great demand for it; is that it?

A. The features that Mr. Lorimer has been publishing in it has made it a very strong factor this spring.

Q. Now, then, just how did this new agent excel Mr. Sanborn in his work? What has he done that Mr. Sanborn did not do?

A. I can give you an idea from my own personal observations while I was out there.

Q. Just what did he do?

A. If you will let me answer your question, I will answer it in my own way, Mr. Daly.

Q. Well, answer it.

A. I had several boys—one master salesman—come to see me while we were in Denver on these hearings. One of these boys was James Reed, and he commented over the change——

Q. No, not what the boy said; but what did this man do?

A. That is what I am coming to.

Q. I know, but do not mix in a lot of what boys said. Just say what this agent did in order to——

A. This agent is not diverting the attention of the

boys from the sale of our publications to the sale of other publications, and the parents are not finding the boys' time too largely given up to the sale of publications to interfere with their school duties, and so forth.

Q. Then, as I understand you, that where you have single and individual effort that way, that it redounds to an increased circulation; is that correct?

A. It very often does, Mr. Daly, other things being equal.

Q. Is there any case where it does not?

A. Oh, yes; you may have single, undivided efforts, by a man without intelligence enough and without tact enough.

Q. But, where everything is equal and a man has intelligence and he is a good man?

A. Other things being equal, the undivided interest is best.

Q. Is best for you?

A. Other things equal; yes, sir.

MR. DALY: That is all.

MR. WELCH: That is all.

MR. DALY: Have you anything else now in surrebuttal?

MR. MILBURN: I do not think so.

MR. WELCH: No.

MR. DALY: Mr. Sanborn, just take that chair, will you please?

HAROLD SANBORN was recalled as a witness on behalf of the Commission and, having been previously sworn, testified as follows:

DIRECT EXAMINATION.

By MR. DALY:

Q. Mr. Sanborn, yesterday I called your attention to letters which were marked for identification "Com-

mission's Exhibits Nos. 221, 222, 223, 224, 225 and 226," and you said that you received those letters from the Collier Company.

Now, I show you your letters, attached to each of these, and ask you if those letters are the letters that you wrote and sent to the Collier Company, which brought about the replies that you identified yesterday.

A. Yes, sir; they came from me.

MR. WELCH: There is no objection to these, Mr. Daly.

MR. DALY: We offer those letters and the replies.

EXAMINER MOORE: The letters and replies will be received in evidence, without objection.

MR. DALY: I ask that they be copied in the record.

(The letters referred to were thereupon received in evidence, marked by the stenographer "Commission's Exhibits Nos. 221 to 226," inclusive, and are as follows:)

COMMISSION'S EXHIBIT No. 221.

"HAROLD SANBORN
(Letterhead)
Denver, Colo., 4/17/11

C. H. Smith
c/o P. F. Collier & Son,
New York City.

Dear Mr. Smith:

We expect to lose the Curtis agency and are preparing to go after a big boy sale on suitable magazines 'hammer & tongs.' We have had a long period of correspondence with them, which I believe is ended, since we wrote them definitely

that we would not be bound by the contract and conditions that they demand.

We believed most of our boys will still come to our office to buy whatever they can sell, so we look for a good business in spite of the loss of their business.

The only cause for worry, therefore, is the several hints they have made that defection from them 'would be disastrous,' etc., for we wonder if they could have influence enough to cause other magazines to either drop us or to prevail on new magazines going independent to look to their agent. So long as we can represent those we do now we should be able to keep up a good business.

We, therefore, bespeak any co-operation you can give us in that way, and assure you we will redouble our efforts on your magazine.

I have wondered if you would care to let us offer boys 3 free copies of Collier's to try and persuade boys to start in in this way. Would you wish to try such an offer?

Yours truly,

Harold Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Inc.
416 West Thirteenth Street, New York
Charles H. Smith
Manager News-stand sales

April 24, 1917

Mr. Harold Sanborn,
No. 619 - 19th St.,
Denver, Colorado.
Dear Mr. Sanborn:—

I have your very interesting letter of April

17th with reference to the Curtis proposition. At first, this may appear as a serious loss but I have no doubt but what the other magazines you are distributing will stick to you, and others will come to you. There is no reason why this should not be the result because, with your experience in this business, also the good-will you enjoy among the Denver dealers, you have a big asset.

Regarding COLLIER'S—I shall be very happy to have you go the limit, and as for building up a big boy sale, I want to co-operate with you in every way I can and if this means giving three copies to each new boy to persuade him to start, I say 'go to it.' All I ask is that you send me a slip with each boy's signature and I will arrange to credit your account.

Better still, if you think a personal letter from this office to each boy will help, I shall be very glad to do this for you.

I don't know whether you are aware of it or not, but Scott Krauss of Columbus, Ohio, also took the stand you did and has branched out considerably on COLLIER'S because he went at it with the idea of putting it over in a big way—and is doing it.

Let me know what you are going to do and what you think about writing your boys.

Very truly yours,

COLLIER'S
The National Weekly

C. H. Smith
News-stand Department.

Tuesday 'The National Weekly' Day"

COMMISSION'S EXHIBIT No. 222.

"HAROLD SANBORN
(Letterhead)

Denver, Colo., 5/5/17

P. F. Collier & Son,
New York City.

Dear Sirs:—

Enclosed find check for 69.94 to cover April supplies.

Covering your recent letters to us would say that in accordance with your offer we are offering 3 Collier's free in starting desirable boys & will forward receipts for them to you. We expect to get enough boys selling to lower our returns and bring our sale higher. In view of your announcement of a cut to 950 copies we will make our dealer distribution very close in order to have copies for the boys. Of course, I am sorry our returns were so heavy you felt it necessary to cut but Collier's is hard to watch. This is our slump time here rather than later in the summer, however.

Not only will you have the names of the new boys on free copy receipts for references in writing, but we will hope sometime to send you another list. Lately with the addition of Pictorial and Literary Digest and our correspondence with the Curtis we have been more than busy.

Perhaps our announcement of a severance with the Curtis Company was premature, since we are still distributing for them.

However, in the face of their announcement that we must give up Pictorial Review, confine our boy sales to their publications, put up more bond, and affirm their right to dictate the magazines we should handle, we declined to meet conditions they named, although willing to represent them to the

best of our ability without such conditions. Inasmuch as they had a representative in Colorado who was already reviewing prospects for our successor, we thought we were through with them, but they have lately stated they would take up our reply after an exchange of views with certain representatives of theirs.

Since we have heard of the injunction obtained by the Pictorial Review against them, we begin to hope we shall not be bothered for some time; although we shall push all our magazines now in any way we can and not be hindered by their objections.

Yours truly,

Harold Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Inc.
416 West Thirteenth Street, New York.
Charles H. Smith,
Manager News-stand Sales.

May 11th, 1917.

Mr. Harold Sanborn,
619 19th Street,
Denver, Colorado.

Dear Mr. Sanborn:

Thank you very much for your remittance of $69,94, for which we are attaching receipt.

In view of your present situation with the other big weekly, I hope you are making it a point to go after boys' sales on COLLIER'S more determined than ever. There is no reason in the world why a youngster could not sell COLLIER'S to his Post customers, and do it with a great deal of success.

What you say about still distributing for Curtis was not so much of a surprise to me, because in the first place they know on which side their bread is buttered, and secondly, I feel sure you will come out on top of the pile if you keep a stiff upper lip. There is no other way to it; they see the wisdom of staying with you, as to do anything else would be too expensive.

As for our sales, we hope that things are now at their lowest ebb, and that there is very little possibility of going below our present figures.

Very truly yours,

COLLIER'S,
The National Weekly,
C. H. Smith,
News-stand Department.

Tuesday, 'The National Weekly' Day.

RECEIPT FOR PAYMENT x No. 16,740.

Ledger No.

416 West 13th Street,
New York, May 10th, 1917.

Received $69.94 By Cash, Ck. B. Draft, M. O., Postage,
Credit to I N A. (Department Branch.)

P. F. COLLIER & SON,
Per L.

Received payment from

Harold Sanborn,
619 19th Street,
Denver, Colo.

N. B.—When referring to this payment, mention number marked x."

COMMISSION'S EXHIBIT, No. 223.

"HAROLD SANBORN
(Letterhead)

Denver, Colo., 5/29/17.

F. P. Collier & Son,
New York City.
Dear Sirs:

Enclosed find check for $58.99 to cover May statement.

I enclose 7 receipts for 3 free copies from boys.

I also enclose a list of boys, with their addresses, to whom you might write.

Yours truly,

Harold Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Incorporated.
West Thirteenth Street, New York.

June 13, 1917.

Mr. Harold Sanborn,
No 619 19th St.,
Denver, Colorado.
Dear Mr. Sanborn:

Thank you very much for your remittance of $48.99.

The seven receipts, covering the distribution of 3 copies to each of the boys, are being referred to the Accounting Department, so your account might be credited.

As for the list of boys, I will get up a letter to them and have it go out within the next day or so, sending you a copy of it.

I hope you will keep in very close touch with the youngsters so we will be working together on

this and make it appear as though we are all very enthusiastic.

Very truly yours,

COLLIER'S,
The National Weekly,
C. H. Smith,
News-stand Department."

COMMISSION'S EXHIBIT, No. 224.

"HAROLD SANBORN
(Letterhead)

Denver, Colo., 7/18/17.

C. H. Smith,
c/o P. F. Collier & Son,
New York City.
Dear Sir:

The controversy on whether we can carry magazines not approved by the Curtis Company has been reopened, and the statement made by representatives from them and by one of the applicants for my Curtis agency (if I lose it) Mr. W. C. Eden, that in case of separation of agencies they could influence you to transfer the Collier agency from me to the new man.

In view of your past remarks on the subject, I doubt their statements very much, but just to know absolutely where I stand I would like your assurance as to whether you would stick by me in case of separation if I continued to give you good representation and conducted your agency properly.

Trusting for an early reply,

Yours truly,

Harold Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Incorporated.
416 West Thirteenth Street, New York.

July 23, 1917.

Mr. Harold Sanborn,
619 Nineteenth Street,
Denver, Colorado.
Dear Mr. Sanborn:

Replying to yours of the 18th, I just want to say that if you knew me personally you wouldn't feel it necessary to write such a letter.

However, in order to give you the proper assurance, I will say that so long as you continue to give the kind of service and promotion that you have you need have no fear of our transferring to anyone else.

This, of course, is working on the assumption that you will be able to keep some of your other agencies in order to at least insure sufficient profits to keep you happy.

Very truly yours,

COLLIER'S,
The National Weekly,
C. H. Smith,
News-stand Department."

COMMISSION'S EXHIBIT, No. 225.

"HAROLD SANBORN
(Letterhead)

Denver, Colo., 7/23/17.

Mr. C. H. Smith,
c/o P. F. Collier & Son,
New York City.
Dear Sir:

Replying to your letters concerning our boy list, would say that we gave you a list of boys who had been selling magazines with us within a few months so we thought they were quite likely mate-

rial. We had but one or two responses from the letters, however.

As mentioned in a recent letter, we are still having trouble with the Curtis Company and it interferes with our duties a lot with all the uncertainty and interviews, etc. If we get this settled soon I can send you a list of boys actually selling publications, but think best not to now, because we might risk a forfeiture of a bond, etc.

Whenever we have extras of Collier's to sell we have put up small prizes for the boys and push the sales that way.

Regarding the bill for H. O. Nichols at Colo. Springs, would say that Mr. Nichols joined the Army and we could get no satisfaction from him. He seemingly took no interest in the muddle he left at the Springs. We can, therefore, do little now in this connection.

Mr. Asborn, I believe, still has funds due Mr. Nichols from the purchase of the business there, and I have sent the bill to him and would suggest that you apply a little pressure on Mr. Osborn to let loose from the money he is holding.

Yours truly,

Harold Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Incorporated.
416 West Thirteenth Street, New York.

Charles H. Smith,
Manager News-stand Sales.

July 27, 1917.

Mr. Harold Sanborn,
619 Nineteenth Street,
Denver, Colorado.

Dear Mr. Sanborn:

I have yours of the 23rd, and note what you

say about working through boys. I wish this question was settled one way or the other, so that you would be able to enjoy that ease of mind that is necessary to work toward success. Personally, I think it will only be a matter of a short time when we will know where we stand, especially after the Federal Trade Commission renders its decision. Incidentally, what do you hear along these lines?

Regarding the subject of collecting Nichols' indebtedness at Colorado Springs: I have referred this to Mr. Osborn as you suggested. It seems to me that he ought to be able to take care of this for us, especially if he has not yet transferred the funds to cover the purchase of the business. Why is he holding on to this so long?

Very truly yours,

COLLIER'S,
The National Weekly,
C. H. Smith,
News-stand Department.

Tuesday, 'The National Weekly' Day."

COMMISSION'S EXHIBIT, No. 226.

"HAROLD SANBORN
(Letterhead)

Denver, Colo., 8/1/17.

P. F. Collier & Son,
New York City.

Dear Sirs:

Enclosed find check for 69.04 covering July statement.

Kindly cut off the orders of Secord Book Store (C. R. Secord), Ft. Collins, Colo., and Star Phar., Nederland, Colo.

Yours truly,

Harold Sanborn.

P. S. It may interest you to know that nearly every week we have some prize up for boys who increase Collier sales.

Yours,

H. Sanborn.

COLLIER'S
The National Weekly
P. F. Collier & Son, Incorporated.
416 West Thirteenth Street, New York.
Charles H. Smith,
Manager News-stand Sales.

August 8, 1917.

Mr. Harold Sanborn,
619 Nineteenth Street,
Denver, Colorado.
Dear Mr. Sanborn:

Thank you very much for your remittance of $69.04, for which I am pleased to enclose receipt.

We canceled the orders of C. R. Secord, Ft. Collins, Colorado, and the Star Pharmacy, Nederlands, Colorado, after shipping the issue of August 11th.

It certainly does interest me to know that prizes are being put up for the boys each week. I am very confident that this effort will bring further success. It cannot fail to interest the youngsters in our magazine, and after they have once tried it out they will find its true selling value.

Keep me informed of the progress you are making through youngsters, with the confidence that at all times I shall be willing to offer my hearty co-operation.

Very truly yours,

COLLIER'S,
The National Weekly,
C. H. Smith,
News-stand Department.

Tuesday, 'The National Weekly' Day."

CROSS-EXAMINATION.

By MR. WELCH:

Q. Mr. Sanborn, in your letter of May 5, 1917, which is marked "Commission's Exhibit, No. 222," you said as follows, at the end of it: "Since we have heard of the injunction obtained by the 'Pictorial Review' against them"—after referring to the Curtis Company—"we begin to hope we shall not be bothered for some time," etc. Who told you that the "Pictorial Review" obtained an injunction against the Curtis Publishing Company?

A. I think I read it in the papers, and also a circular I had.

Q. Who was that circular from?

MR. DALY: Now, unless he knows that——

MR. WELCH: He says he received a circular.

MR. DALY: He says he thinks he did.

THE WITNESS: First of all, I read it in the newspapers and two or three places, anyhow.

By MR. WELCH:

Q. Did the newspapers say an injunction had been obtained against the Curtis Company?

A. Something to that effect.

Q. What newspaper did you read?

A. Well, it was in the Denver papers.

Q. What about the circular that notified you that an injunction had been obtained against the Curtis Company?

A. Some time after, I received a little circular.

Q. From whom?

A. From the "Pictorial Review," I believe, and it simply showed the headlines from the different newspapers here, like the "New York Times," and all of the New York papers, showing the comments they made on the injunction, as I remember it.

Q. Did you ever learn that an injunction had not

been obtained against the Curtis Publishing Company by the "Pictorial Review"?

A. Well, I understood—I don't know whether the notice read that they had applied for one or obtained one. I think it must have been just applied, because I know they didn't get it.

MR. WELCH: That is all.

MR. DALY: Then all of the information you had was from the source you mentioned. I think those circulars are in evidence, are they not?

MR. MILBURN: They are in the record.

MR. DALY: That is all.

MR. MILBURN: The following stipulation is now made on the record by counsel for both of the parties hereto: Inasmuch as a new contract has been put into operation by the Curtis Company with its agents, during the pendency of this proceeding, and during the taking of testimony, as has been shown by certain of the testimony taken herein, and inasmuch as an amendment to the complaint was made to cover the new contract, now, in order to obviate a re-examination of the witnesses examined before the issuance of the new contract and before the amendment referred to, it is stipulated that all of the testimony taken, applicable to the old contract, be deemed as having been taken with reference to the new contract, insofar as it is applicable thereto.

MR. DOUGLAS: On page 4844 of the record, it shows that I said: "I have not attended any advertising conferences." The statement made, or intended to be made, was that I had not attended the particular advertising conferences, having reference to the specific question Mr. Daly asked me about a certain advertising increase. On page 4849, the last answer at the bottom of the page re-

ports me as having said: "There have not been discussions of the effect of circulation on advertising." Substitute the answer: "Generally, yes."

EXAMINER MOORE: There is a reservation of a ruling on page 1846 of the record, in reference to the admissibility of the testimony on two publications, called "Our Boys" and "The Counsellor." Objection was made to the admissibility of it by Mr. Daly, and the Examiner reserved a ruling on that matter. The ruling is that the evidence will be admitted and the objection overruled.

MR. DALY: Now, Mr. Douglas has agreed to furnish a certain list of agents, as the record shows, and I wanted to have some understanding about how we are to get this into the record, in the event we desire it to appear therein. Are we to simply make that a part of the record, without having another hearing, by agreement?

MR. MILBURN: Could that be submitted to the Commission as an outside exhibit? Then it does not have to go into the record. You can submit it or we will submit it. We will send you copies of it.

MR. DALY: Why cannot we have it admitted without being copied in the record? Mr. Douglas has agreed to furnish a list of certain agents, which has been set out in the record; and, upon the receipt by the Commission of this statement to be furnished, the understanding is by and between counsel for the Commission and for the respondent that this statement may be admitted and marked as an exhibit, but is not to be copied into the record. Now, Mr. Examiner, we had some understanding yesterday with reference to this question of advertising, and counsel for the respondents stated that they would prepare, after

consulting experts on this question, a statement to be submitted to counsel for the Commission, with the view of our being able to stipulate the facts surrounding this question of advertising; and, in the event that we cannot agree as to this stipulation, then it is understood that the hearing will be open for either side on that subject.

EXAMINER MOORE: Very well; it will be so understood.

MR. DALY: Mr. Examiner, the preparation of the brief will take some reasonable time, of course. This record is large, having about 5000 pages, and not including a number of exhibits, and it will take us considerable time to read this record and cull out the facts that are applicable to the different issues in this proceeding. Then, in addition to that, of course, as your Honor knows, this brief will contain the law as well as the facts, from the standpoint of the Government; and, while we do not want any unnecessary time, and we are anxious to hurry this case and close it, yet at the same time we want some proper interval to prepare this brief, which will be quite large and which will be quite difficult to prepare.

EXAMINER MOORE: The attorneys for the Commission will have ready their brief and present the same to counsel for respondent and to the Commission on August 15, 1918. The attorneys for respondent will be given until October 1st, in which time to file their reply brief. The hearings in this proceeding, then, are closed, subject to the agreement previously made in reference to the question of advertising, which may necessitate further hearings.

(Whereupon, at 11.45 o'clock A. M., July 3, 1918, the hearing in the above-entitled matter was closed, subject to the agreement previously made in reference to the question of advertising.)

UNITED STATES OF AMERICA,
BEFORE FEDERAL TRADE COMMISSION, } *ss.:*

Federal Trade Commission,
v.
The Curtis Publishing Company, } DOCKET NO. 15.

CERTIFICATE.

I, J. P. Yoder, Secretary of the Federal Trade Commission, hereby certify that the attached are full, true and correct copies of certain statements forming part of the record in the proceeding of the Federal Trade Commission v. The Curtis Publishing Company (Docket No. 15 of the Federal Trade Commission), inadvertently omitted from the transcript of the same proceeding filed in the United States Circuit Court of Appeals for the Third Circuit on the 18th day of November, A. D., 1919, pursuant to service upon the Commission of a copy of a Petition for Review by Pritchard, Saul, Bayard & Evans, attorneys for the above-named respondent, on the 27th day of September, A. D. 1919.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the Federal Trade Commission, at the City of Washington, in the District of Columbia, this 24th day of December, A. D. 1919.

J. P. YODER,
Secretary.

(Seal)

THE CURTIS PUBLISHING COMPANY,
Independence Square
Philadelphia
THE LADIES' HOME JOURNAL
THE SATURDAY EVENING POST
THE COUNTRY GENTLEMAN
Sales Division
Circulation Department
M. E. DOUGLAS, *Manager.*

July 24, 1918.

A. M. Daly, Esq.
Federal Trade Commission,
Washington, D. C.
Dear Sir:

During the course of our testimony in the proceeding by the Federal Trade Commission against The Curtis Publishing Company, you requested that I furnish certain information which I herewith submit to you for the purpose of incorporating in the record as follows:

With reference to your request at page 1308 of the record, that I furnish a statement with respect to our District Agents whom you called as witnesses, showing the difference between the amount of the old bond and the new bond in each case, I submit the following with respect to the District Agents named by me at page 3256 of the record:

District Agent	*Town*	*State*	*Difference Between Old and New Cash Security*
Charles Levy,	Chicago,	Ill.	$1500
W. T. McFadden,	Decatur,	"	105
J. D. Shively,	Lafayette,	Ind.	67
H. R. DeWolf,	Indianapolis,	"	1150
M. Schlafman,	Haverhill,	Mass.	222

J. Monroe,	Hillsdale,	Mich.	20
Mrs. E. H. Chatfield,	New Britain,	Conn.	75
H. P. Kopplemann,	Hartford,	"	425
George Hunt,	E. Weymouth,	Mass.	27
J. W. Heffernan,	Northampton,	"	24
George A. Wood,	Taunton,	"	38
R. Woodstock,	Springfield,	"	450
A. F. Goldsmith,	Salem,	"	85
David Boland,	Worcester,	"	496
P. H. Carroll,	Chelsea,	"	30
H. P. Re,	Coldwater,	Mich.	25
H. Stofflet,	Ann Arbor,	"	90
M. Solomon,	Detroit,	"	2500
J. C. Ramroth,	Troy	New York	170
W. O'Reilly,	Kingston	"	87
A. M. Pierson,	Binghamton,	"	250
H. Solomon,	Cleveland,	Ohio	2000
M. Silverstein,	Providence,	R. I.	506

On page 1314 of the record you asked that I inquire into the practice under the new contract with respect to settlements by the District Agents. I have investigated the matter and find that the actual practice under the new form of contract is for District Agents to make settlements after they have received and distributed the copies as shown by the testimony of the various agents called by us in this proceeding. In a very few instances—not over twenty-five or thirty—certain agents for their own convenience insist upon making settlements monthly. This is done of their own volition and it is in no way requested or desired by us. By these twenty-five or thirty District Agents the monthly remittances for about two issues in the month are made in advance of their contract requirements and for about two issues later than according to their contract requirements. All the other District Agents, as I have stated, make all their settlements after they have received and distributed the copies.

At pages 1483 and 1484 of the record you asked what prices The American News Company paid us while we supplied them on a returnable basis, also, at page 1482, that I get information as to the percentage of returns. The year ending with the January, 1899, number of THE JOURNAL was the last year throughout which THE JOURNAL was returnable by the news company. At that time the retail prices to purchasers was ten cents per copy and the price to the news company was 5½ cents per copy. During said last twelve months on a returnable basis the total JOURNAL returns by The American News Company amounted to 6.7% of the total number of copies delivered by us to The American News Company. The retail price of THE JOURNAL was raised to 15 cents a copy in December, 1904, on which date the price to the news company was raised to 8½ cents per copy. Thereafter the prices were as follows:

Year	*When Issued*	*Retail Prices*	*Prices to American News Co.*	*District Agents*
Dec. 1904 to Dec. 1907	Monthly	$0.15	$0.08½	Did not handle
Jan. 1908 to Aug. 1910	"	.15	.08½	$0.09¾
Sept. 1910 to May 1911	Twice a Month	.10	.06	.06½
June 1911 to Oct. 1916	Monthly	.15	.08½	.09¾
Nov. 1916 to June 1918	"	.15	.08¾	.09¾
July 1918 to date	"	.15	.09½	.09¾

On page 3301 of the record I am quoted as having fixed the time when Joseph St. Marie of Minneapolis began with us, as follows: "December and November,

1917, were the first issues of THE JOURNAL." I did not mention the November, 1917, JOURNAL as having been handled by Mr. Joseph St. Marie. He did not handle the November, 1917, JOURNAL for us.

On page 3276 of the record you asked for our capitalization for five years past. Our capitalization was as follows:

1914	$20,000,000
1915	20,000,000
1916	24,000,000
1917	25,000,000
1918	25,000,000

At one of the April hearings in New York, at page 1307 of the record, you asked if I could readily furnish the figures showing the circulation of the different publications where changes had been made from the old to the new contract and where agents had been changed. I stated that we could but that it would take some time. You will readily understand that the compilation of such figures is not an easy matter and the preparation thereof would necessarily require the time of a considerable number of clerks. I am not furnishing these figures until I know that you really desire them at this time. It would be a great burden upon us to compile all this additional data. The matter has been covered in a general way by the testimony and I trust that you will see your way clear to relieve me of the burden of compiling and furnishing these figures.

With the exception of the last-mentioned matter I think the above covers everything requested by you except the list referred to at page 4992 of the record, which will be furnished just as soon as it can be compiled.

Very truly yours,

THE CURTIS PUBLISHING COMPANY,

(Signed) M. E. Douglas,

Manager Sales Division.

MED BHL

State.	Town.	District Agent.	Street.	Date of Appointment.	Did He Wholesale the Curtis Magazines Before He Acted as Magazine Wholesaler for Any Other Publisher?
Alabama	Tuscaloosa	Wilbur H. Ward	502 Greenwood Ave.	November 1912	Yes
"	Gadsden	John Riley	South 5th Street	January 1915	Yes
"	Bessemer	Pegram & Patton Drug Co.	201 N. W. 19th St.	February 1915	Yes
"	Anniston	Scarboro Drug Co.	None given	October 1914	No
"	Selma	Walter S. Butler	207 Broad Street	July 1916	Yes
Arizona	Phoenix	R. B. Berrybill Co.	42-48 Washington St.	November 1908	Yes
"	Globe	Q. S. Van Wagener & Co.	None given	February 1913	Yes
Arkansas	Litle Rock	E. L. Scott	414 W. 2nd St.	September 1911	Yes
California	San Francisco	E. W. Smith & Son	75 Annie Street	October 1906	Yes
"	Sacramento	Arnold Richard	718½ J. St. Room 12	October 1902	No
"	Madera	C. F. Preciado Co.	None given	January 1913	Yes
"	Oakland	E. G. Neilson	1335 Jefferson St.	June 1914	Yes
"	San Pedro	J. D. Harthorn	546 Beacon Street	September 1915	No
"	Riverside	William L. Fry	811 Main Street	February 1906	Yes
"	Los Angeles	R. P. Flanders	557 South Wall Street	October 1915	Yes
Colorado	Grand Junction	Frank Winfield	524 Main Street	April 1917	No
Connecticut	New London	F. W. Farrar	None given	September 1914	Yes
Florida	Palatka	Charles E. Rawton	223 Lemon Street	January 1910	Yes
"	Ocala	W. W. Congdon	None given	January 1916	Yes
"	Lakeland	Fred T. Berford	None given	February 1914	Yes
"	Daytona	Charles H. Smith Sec.	184 South Beach	August 1917	No
Georgia	Newman	J. F. Lee Drug Co.	None given	November 1912	Yes
"	Augusta	J. S. Farr	740 Broad Street	May 1907	Yes
"	Atlanta	Tenenbaum Brothers	12 Gilmer	November 1908	Yes

State.	Town.	District Agent.	Street.	Date of Appointment.	Did He Wholesale the Curtis Magazines Before He Acted as Magazine Wholesaler for Any Other Publisher?
Georgia	Americus	J. E. Hightower	Cor. Lamar & Jackson Sts.	June 1917	No
Illinois	Moline	Leonard C. Oakley	503 15th Street	——— 1910	No
"	Joliet	I. C. White	311 2nd Street	December 1917	Yes
"	Charleston	Jesse D. White	510 7th Street	——— 1908	No
"	Sterling	Hallett & Hallett	121 East 3rd Street	January 1916	Yes
"	La Salle	J. E. Malone	131 Marquette	April 1909	Yes
"	Jacksonville	B. F. Lane	223 West State Street	August 1916	Yes
"	Oak Park	John G. Arnold	119 Marion Street	June 1916	Yes
Indiana	Michigan City	R. M. Robinson	725 Franklin Street	July 1914	Yes
Iowa	Davenport	Bawden Brothers	217 Brady Street	February 1915	Yes
"	Carroll	George B. Tyndale	121 5th Street	April 1910	Yes
Kansas	Topeka	Margaret Goodrich	Apt. 19 The Devon	February 1910	Yes
"	Concordia	Edward Kerin	204 West 6th Street	February 1908	Yes
"	Coffeyville	Warren McNabney	606 West 5th Street	January 1916	Yes
Kentucky	Paducah	W. C. O'Bryan	Box 224	November 1912	Yes
"	Lexington	Esten W. Spears	131 East Main Street	January 1917	No
Louisiana	New Orleans	M. R. Bankston	134 Chartres Street	December 1912	Yes
Massachusetts	Springfield	Roy M. Woodstock	192 State Street	September 1914	Yes
"	South Framingham	J. F. Eber & Company	22 Concord Street	January 1910	Yes
"	Holyoke	Thomas J. Ashe	18 Massoit St. Springfield, Mass.	May 1917	No
Michigan	Traverse City	A. A. McDermott	208 East 8th Street	May 1915	Yes
"	South Haven	A. A. Kellogg	133 Main Street	July 1917	Yes

State.	Town.	District Agent.	Street.	Date of Appointment.	Did He Wholesale the Curtis Magazines Before He Acted as Magazine Wholesaler for Any Other Publisher?
Michigan	Hillsdale	John Monroe	66 Howell Street	September 1917	No
"	Grand Haven	John H. Reichardt	None given	February 1911	Yes
Minnesota	International Falls	Lawrence Pharmacy	None given	July 1912	Yes
"	Fergus Falls	Westberg & Kissinger	116 Lincoln Avenue	April 1917	No
"	Faribault	F. M. Pierce	Central Avenue	December 1913	Yes
"	Crookston	S. A. Wallace	None given	February 1910	Yes
Mississippi	Vicksburg	Clarke & Company	1318 Washington Street	January 1909	Yes
Missouri	Hannibal	S. G. Kent	323 Broadway	November 1912	Yes
"	Chillicothe	W. J. Clark	516 Washington Ave.	January 1910	Yes
Montana	Billings	E. C. Enos	Stapleton Building	November 1915	Yes
"	Lewiston	Mrs. Fred Anderson	Main & 4th Streets	November 1913	Yes
"	Forsythe	Edwin Katzenstein	Main Street	——— 1907	Yes
"	Butte	Keffe Brothers	27 Park Street	September 1909	Yes
Nevada	Reno	Reno Stationery Co.	None given	January 1914	Yes
New Jersey	Pennsgrove	T. V. Sickler	Main St.&Delaware Ave.	February 1915	Yes
"	Asbury Park	J. Q. Harrison	615 Mattison Avenue	September 1909	Yes
"	Plainfield	W. H. Olmsted	331 Watchung Avenue	July 1914	No
New York	Dunkirk	Carroll F. Shinners	Central Avenue	August 1905	Yes
"	Cortland	I. A. Dexter	95 Main Street	December 1910	Yes
"	Utica	H. C. Stone	116 Bleeker Street	February 1917	Yes
"	Brooklyn	Harry Peck	326 9th Street	——— 1908	Yes
Ohio	Coshocton	C. C. Lorenz	545 Main Street	July 1911	Yes
"	Troy	Ralph W. Dalton	131 S. Market Street	April 1915	Yes
"	Massillon	Edw. F. Bahney	10 East Main Street	May 1907	Yes

State.	Town.	District Agent.	Street.	Date of Appointment.	Did He Wholesale the Curtis Magazines Before He Acted as Magazine Wholesaler for Any Other Publisher?
Oregon	Roseberg	M. J. & S. J. Shoemaker	231 North Jackson	February 1917	Yes
"	Portland	F. N. Bay	270 4th Street	February 1916	Yes
"	Baker	Leo Adler	1912 Main Street	May 1907	Yes
"	Ashland	W. W. Poley	17 East Main Street	April 1913	No
Pennsylvania	Bethlehem	R. B. Weand	56 East Broad Street	December 1914	Yes
"	Wilkinsburg	McIntyre & Grim	927 Wood Street	September 1915	No
"	McKeesport	W. F. Forrester & Co.	520 5th Street	July 1911	Yes
South Carolina	Charleston	Legerton & Company	263 King Street	November 1913	Yes
"	Anderson	Rufus Fant	116 West Whitner Street	April 1911	Yes
South Dakota	Mitchell	Lareson Brothers	210 Main Street	April 1913	Yes
"	Huron	C. H. Longstaff	914 West 3rd Street	January 1910	Yes
Tennessee	Knoxville	Charles E. Hatton	709 Gay Street S.	May 1914	Yes
"	Jackson	Frank C. Haas	209 East Main Street	January 1916	No
Texas	San Angelo	J. E. Potter	120 S. Chadbourne St.	——— 1906	Yes
"	San Benito	Frank Roberts	The Alcove	September 1914	Yes
"	Paris	Buryl D. Johnson	116 North Side Square	March 1914	Yes
"	Port Arthur	W. P. Hastings	442 Austin Avenue	August 1913	Yes
Utah	Salt Lake City	Mrs. Moveta Bryar	27 E. 4th South St.	May 1916	Yes
Virginia	Alexandria	S. F. Dyson & Bros.	420 King Street	April 1915	Yes
West Virginia	Morgantown	Frank Herd	331 High Street	May 1915	No
Wisconsin	Chippewa Falls	M. A. Phillips	None given	October 1909	Yes
"	Ripon	O. Schallern	Watson Street	September 1915	Yes

STATEMENT OF WILLIAM BOYD FURNISHED BY REQUEST OF COUNSEL FOR FEDERAL TRADE COMMISSION.

Philadelphia, July 18, 1918.

My attention has been called to a question put to Mr. Douglas in this inquiry, i. e., "To what extent do the charges for advertising depend upon the circulation?", Record, p. 1815, and also to Mr. Douglas' response thereto.

I am at present the Advertising Director of THE CURTIS PUBLISHING COMPANY, having held that office since April 1, 1915. Prior to that time I was Advertising Manager of the Chicago Office of THE CURTIS PUBLISHING COMPANY for five years and have altogether been active in the Advertising Department of this Company for the past seventeen years.

It is, in my opinion, impossible to make a specific answer to the question proposed to Mr. Douglas. Broadly speaking, the rate paid for advertising is to a large extent dependent upon the volume of circulation of the publication but this statement must be qualified by many considerations. Mere volume of circulation, irrespective of the quality of that circulation, is not the determining factor.

A magazine may have a large circulation and yet may have a relatively small advertising rate, or the contrary may be true. If the magazine attain a uniform and thorough distribution among a class of people calculated, by reason of their means or position, to be attracted by advertising to the purchase of any product it can command a higher advertising rate than a magazine with an equal circulation among a class of readers not so apt to become purchasers.

The value of the circulation also depends upon the percentage of renewal of subscriptions, and upon the percentage of the repurchase by the same reader of

successive issues of the magazine, because these channels of circulation bring the advertising matter more prominently to the attention of the prospective purchaser.

The character of the advertising contained in the publication is also of great importance. You can sell advertising space in a magazine which contains the advertisements of great reputable and well known concerns where you cannot sell the same space at the same rate in a similar magazine even though the circulation be the same, if the advertisements in the second magazine are placed by concerns of inferior or unreliable character. The rate of advertising is also controlled in many instances by the policy of the publisher of the magazine in question. One publisher may seek volume of advertising at a comparatively low rate; another may seek less volume at a higher rate.

There is a general basic rule that the rate paid for advertising in magazines is one-half cent per line per one thousand circulation. This is a working rule but is subject to innumerable variations as the different conflicting elements I have noted above come into play. One magazine may be able to get more than one-half cent a thousand; another less. Whether they can or cannot do so will depend, not only upon the volume but upon the quality of the circulation and the reputation of the magazine, as I have outlined.

As evidence of the variation of this rule, I beg to call your attention to the following magazines with their advertising rates and will rely for my figures on Stalkers Universal Service—issue of April 15, 1918, which is published in Toledo, Ohio, and very easy to secure:

ATLANTIC MONTHLY—Guaranteed circulation of 75,000 per month—obtains a rate of 75 cents per line, which is equivalent to one cent per line per one thou-

sand circulation, or twice the amount stated in the general rule.

COUNTRY LIFE—Circulation 37,379—obtains a rate of 85 cents per line, whereas under the rule it would be entitled only to 19 cents per line.

HARPER'S MAGAZINE—Circulation 100,964—obtains a rate of $1.50, which is approximately three times the amount stated in the rule.

WOMAN'S HOME COMPANION—Circulation 1,130,173—obtains a rate of $5.00 per line, which is slightly less than the amount stated in the rule.

COMFORT—Circulation 1,275,326—obtains a rate of $5.00 per line, which is materially less than the amount stated in the rule.

GENTLEWOMAN—Circulation 1,500,000—obtains a rate of $6.00 per line, whereas under the rule as stated. it would be entitled to a rate of $7.50 per line.

The advertising rates paid to the three magazines published by our own Company illustrate this divergence from the basic rule. The divergence is due to particular circumstances affecting each of the three publications.

SATURDAY EVENING POST, with a circulation of 1,827,842, charges advertising rate of $8.00, whereas it would be entitled under the rule to charge a fraction over $9.00. THE LADIES' HOME JOURNAL with a circulation of 1,606,830 charges an advertising rate of $9.00, whereas under the rule it would be entitled only to a fraction over $8.00. THE COUNTRY GENTLEMAN with a circulation of 438,474 charges a rate of $2.00, whereas under the rule it would be entitled to a rate slightly in excess of that figure.

The circulation of THE SATURDAY EVENING POST has ow risen from the figure given to 1,953,984 and no increase as been made in the advertising rate based upon this in- ease in circulation. This is true also of many instances the past where there have been marked changes in the rculation figures of THE POST and of THE LADIES' HOME URNAL without corresponding changes in the advertising te, either of increase or of decrease.

These instances show that other considerations besides ere circulation enter into the fixing of an advertising rate, nd that it is impossible to accurately state to what extent harges for advertising depend on circulation when that lone is considered.

(Signed) WILLIAM BOYD.

3446 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the honorable the judges of the United States Circuit Court of Appeals for the Third Circuit, greeting:

Being informed that there is now pending before you a suit in which The Curtis Publishing Company is petitioner and Federal Trade Commission is respondent, No. 2511, which suit was removed into the said Circuit Court of Appeals by virtue of a petition to review orders of Federal Trade Commission, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Circuit Court of Appeals and removed into the Supreme Court of the United States,

3447

3448 do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Joseph McKenna, senior Associate Justice of the Supreme Court of the United States, the fourteenth day of June, in the year of our Lord one thousand nine hundred and twenty-one.

JAMES D. MAHER,
Clerk of the Supreme Court of the United States.

(Endorsement:) File No. 28282. Supreme Court of the United States, No. 328, October Term, 1920. Federal Trade Commission vs. The Curtis Publishing Company. Writ of certiorari. Received, office of the clerk, Supreme Court U. S., Aug. 9, 1921.

3449 In the United States Circuit Court of Appeals for the Third Circuit.

THE CURTIS PUBLISHING COMPANY, PETITIONER, *against* FEDERAL TRADE COMMISSIONER, RESPONDENT.	No. 2511. March Term, 1920.

BUFFINGTON, *J.*

Since the opinion in this case was filed our attention has been called to the fact that an analysis was made of the old agency contract of the Curtis Company (Exhibit A of the answer) instead of the present contract of the Curtis Company (Exhibit B of the amended answer, but erroneously referred to in the opinion as Exhibit D). Parts of the old agency contract were also printed in the margin of the opinion. It is only proper to state that in the voluminous record and exhibits a mistake was made in this respect. However, an analysis of the present contract of the Curtis Company has satisfied us that the reasoning of the opinion with respect to the old contract applies with even greater force to the present contract and that the present contract (Exhibit B of the amended answer)

our opinion to be regarded and construed as a contract of agency and not as a contract of sale or lease. Our decision in this case is therefore not affected, but the original opinion is supplemented and corrected in accordance herewith.

(Endorsements:) 2511. Supplement to opinion. Received & filed Jun. 17, 1921. Saunders Lewis, jr., clerk.

3450 UNITED STATES OF AMERICA,
Eastern District of Pennsylvania,
Third Judicial Circuit, sct.:

I, Saunders Lewis, jr., clerk of the United States Circuit Court of Appeals for the Third Circuit, do hereby certify the foregoing to be a true and faithful copy of the original supplemental opinion in the case of Curtis Publishing Company, petitioner, vs. Federal Trade Commission, respondent, on file, and now remaining among the records of the said court, in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this fifteenth day of July, in the year of our Lord one thousand nine hundred and twenty-one, and of the Independence of the United States the one hundred and forty-sixth.

[SEAL.] SAUNDERS LEWIS, Jr.,
Clerk of the U. S. Circuit Court of Appeals, Third Circuit.

3451 In the United States Circuit Court of Appeals for the Third Circuit.

THE CURTIS PUBLISHING COMPANY, PETITIONER. *vs.* FEDERAL TRADE COMMISSION, RESPONDENT.	March Term, 1920. No. 2511.

STIPULATION AS TO RETURN TO WRIT OF CERTIORARI.

It is hereby stipulated by counsel for the parties to the above-entitled cause that the certified copy of the transcript of the record now on file in the Supreme Court of the United States, together with a certified copy of the supplemental opinion filed June 17, 1921, shall constitute the return of the clerk of the United States Circuit Court of Appeals for the Third Circuit to the writ of certiorari granted therein.

WM. L. FRIERSON,
Solicitor General.
RALPH B. EVANS,
Counsel for Curtis Publishing Company.

JUNE 15, 1921.

(Endorsements:) 2511. Stipulation of counsel as return to writ of certiorari. Received & filed Aug. 6, 1921. Saunders Lewis, jr.,

3452 UNITED STATES OF AMERICA,
Eastern District of Pennsylvania,
Third Judicial Circuit, sct.:

I, Saunders Lewis, jr., clerk of the United States Circuit Court of Appeals for the Third Circuit, do hereby certify the foregoing to be a true and faithful copy of the original stipulation of counsel filed in this court in the case of Curtis Publishing Company, petitioner, vs. Federal Trade Commission, respondent, on file, and now remaining among the records of the said court, in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this eighth day of August in the year of our Lord one thousand nine hundred and twenty-one, and of the Independence of the United States the one hundred and forty-sixth.

[SEAL.] SAUNDERS LEWIS, Jr.,
Clerk of the U. S. Circuit Court of Appeals, Third Circuit.

3453 File No. 28282. Supreme Court U. S. October term, 1921. Term No. 328. Federal Trade Commission, petitioner, vs. The Curtis Publishing Company. Writ of certiorari and return. Filed August 9th, 1921.

○

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 925.

FEDERAL TRADE COMMISSION, PETITIONER,

vs.

THE CURTIS PUBLISHING COMPANY, RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

INDEX.

	Page
Petition of the Curtis Publishing Company for review of order of Federal Trade Commission	1–33
Order of Circuit Court of Appeals to Federal Trade Commission to certify transcript of record	34
Opinion of Buffington, J	35–72
Decree	72
Mandate	72–73
Clerk's certificate	73

In the United States Circuit Court of Appeals for the Eastern District of Pennsylvania.

FEDERAL TRADE COMMISSION against THE CURTIS PUBLISHING COMPANY.

Petition for a review of the order to cease and desist issued by the Federal Trade Commission against the Curtis Publishing Company, dated July 21st, 1919.

Prichard, Saul, Bayard & Evans, attorneys for petitioner. Land Title Bldg., Philadelphia.

John G. Milburn, Joseph W. Welsh, John G. Milburn, jr., of counsel.

INDEX.

	Page.
Petition	(1) 1–13
Complaint, Exhibit A	(22) 13–15
Amended complaint, Exhibit B	(26) 15–17
Answer, Exhibit C	(30) 18–20
Exhibit A of answer	(35) 21–25
Exhibit B of answer	(42) 25–30
Report of commission, Exhibit D	(50) 30–32
Findings as to the facts	(50) 30–32
Conclusions	(53) 32
Order to cease and desist, Exhibit E	(54) 32–33

In the United States Circuit Court of Appeals for the Eastern District of Pennsylvania.

FEDERAL TRADE COMMISSION
against
THE CURTIS PUBLISHING COMPANY.

The petition of The Curtis Publishing Company, the respondent herein, respectfully shows to this court:

First. That your petitioner is a corporation organized and existing under the laws of the State of Pennsylvania, having its principal place of business in the city of Philadelphia in the State of Pennsylvania.

Second. That your petitioner is, and for many years past has been, engaged in the publication, circulation, and sale of monthly and weekly periodicals, to wit, the Ladies' Home Journal, the Saturday Evening Post, and the Country Gentleman.

Third. That your petitioner, on or about the 9th day of July, 1917, was served with a complaint by the Federal Trade Commission, a copy of which is annexed hereto, marked "Exhibit A," and that on or about the 10th day of April, 1918, your petitioner was served with an amended complaint by the Federal Trade Commission, a copy of which is annexed hereto and marked "Exhibit B."

Fourth. That your petitioner duly appeared before the Federal Trade Commission by its attorneys, Carter, Ledyard & Milburn, 54 Wall Street, New York City, and filed its answers to the aforesaid complaint and amended complaint, a copy of the answer to the amended complaint is hereto annexed, marked "Exhibit C."

Fifth. That thereafter testimony was taken before Charles S. Moore, Esq., an examiner appointed by the commission, both on behalf of the commission and on behalf of your petitioner. The taking of this testimony commenced in December, 1917, and was continued at various times and places up to July 3rd, 1918.

Sixth. That thereafter, and on the 29th and 30th days of January, 1919, a hearing was had by the said commission at its office in Washington, D. C., at which the chief counsel for the commission, Mr. John J. Walsh, and his associate counsel, Mr. L. A. Spiess, were heard on behalf of the commission and Mr. John G. Milburn and Mr. Joseph W. Welsh were heard on behalf of your petitioner.

Seventh. That thereafter, and on the 11th day of August, 1919, the commission served upon your petitioner its report, including its findings as to the facts and conclusions, and at the same time issued and served upon your petitioner the order of the commission, dated July 21st, 1919, to which this petition is directed. Copies of the report, findings, and conclusions of the commission and of its said order are annexed hereto and marked "Exhibits D" and "E."

Your petitioner now prays for an order of this honorable court setting aside the said order issued by the Federal Trade Commission, for the following reasons:

First. On the ground that incompetent and illegal evidence was admitted by the examiner before whom the testimony was taken, and that this illegal evidence influenced the examiner and the commission in making its findings, conclusions, and the order herein.

Second. On the ground that the findings as to the facts and the order based thereupon, in so far as they refer to and include so-called wholesale dealers engaged in the sale or distribution of newspapers only, are not within any of the charges against this respondent set forth in the complaint or the amended complaint herein or within the issues raised by the pleadings herein, and are not supported or justified by the evidence.

Third. On the ground that the findings as to the facts made by the commission, upon which the order herein is based, are unsupported by the testimony and are against the weight of the competent evidence before the commission in the following particulars:

1. The finding of fact contained in paragraph two of said findings that respondent has entered into contracts with 447 so-called dealers, who, "previous to entering into such contracts with respondent were regularly engaged in the business of wholesale dealers in newspapers or magazines, or both," is not supported by the evidence, the number of 447 appearing, by the uncontradicted testimony, to be the number of respondent's agents who also wholesale newspapers at the present

time; the uncontradicted evidence further showing that of the 1,375 agents in the United States with whom the respondent has contracts, only 102 wholesaled other magazines or periodicals at the time they entered into such contracts and became the respondent's agents.

2. The finding of fact contained in paragraph two of said findings that "many others" in addition to the 447 so-called dealers referred to therein, have become wholesale dealers in newspapers or magazines, or both, since entering into contracts with the respondent, is not supported by the evidence, the uncontradicted testimony showing that of the 1,375 agents in the United States with whom the respondent has contracts, only 366 wholesale other magazines and periodicals besides the respondent's at the present time, of whom 92 wholesale no newspapers, leaving only 274 who wholesale other magazines and also newspapers at the present time. The evidence further shows that only 173 of the said 1,375 agents wholesale newspapers only, and no magazines besides the respondent's magazines, at the present time.

3. The finding of fact contained in paragraph two that many of the 447 so-called "dealers" and many others who have become such wholesale dealers requested the respondent's permission to engage also in the wholesale distribution of certain publications competing with those of the respondent is not supported by the evidence, there being no evidence and no finding as to who said 447 dealers are or where they or any of the many others referred to are located, the evidence clearly showing that a great majority of the respondent's agents, including those who wholesaled other magazines and newspapers, did not, for various reasons, desire to sell or distribute the publications of the particular publishers referred to.

4. The finding of fact contained in paragraph two of said findings that in enforcing said contract provision as to said dealers, and in denying them permission to engage in the wholesale distribution of certain publications competing with those of respondent, "respondent has prevented and now prevents certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both," is not supported by the evidence, the evidence being entirely to the contrary and showing that the channels of distribution which were open to all of the publishers of periodicals in the country at the time the respondent founded its organization of agents and boys for the distribution of its magazines, are now open to all publishers of periodicals, and further showing that in most of the cities and towns throughout the United States in which the respondent has an agent, there are other competent and efficient magazine and newspaper wholesalers, in many instances being larger and better equipped wholesalers than respondent's agents, all of whom are open and available to any other magazine or periodical publisher, and to the particular competitors of the respondent referred to, for the sale and distribution of their magazines and periodicals; it further appearing, by the testimony of the commission's own witnesses that the competitor of the respondent which made the

complaint to the commission on which this proceeding is founded, to wit, the Pictorial Review Company, has obtained without any difficulty competent and satisfactory wholesalers, other than the respondent's agents, in every city and town where wanted throughout the country, through whom the circulation of said competitor's magazine has been largely increased, and that such wholesalers are open and available to all magazines and periodical publishers. The evidence further shows that the American News Company, an organization which for over fifty years has been the principal channel for the wholesale distribution and sale of magazines and newspapers throughout the United States and which wholesales and distributes more than 400 magazines and periodicals besides countless newspapers, operates throughout the United States and reaches every city and town thereof, and constitutes an efficient and an adequate medium for the wholesale distribution of magazines and newspapers, and that it is open and available to all publishers of magazines and periodicals and to the particular competitors of the respondent referred to.

5. That the finding of fact contained in paragraph two of said findings "that such established channels of distribution are in most instances the principal and most efficient, and in numerous cases, the only medium for the distribution of such publications in the various localities of the United States" is not supported by the evidence, the evidence showing, as stated in the preceding paragraph herein, that the American News Company, the large wholesale distributing agency in the United States, reaches and distributes to all parts thereof, and that there are other competent and efficient wholesalers of magazines and periodicals throughout the United States many of whom have been actually obtained and utilized by the respondent's competitors referred to, resulting in a large increase in the circulations of their magazines.

6. That the finding of fact contained in paragraph two "that such method of competition so employed by respondent in the course of such commerce as aforesaid, has proved and is unfair" is not supported by the evidence, it appearing, on the contrary, by the testimony of the commission's own witnesses, that the competitors of respondent referred to have been at all times, notwithstanding the respondent's contracts with its agents, able to obtain and actually have obtained, through various wholesale dealers, an adequate sale and distribution of their magazines and periodicals, and there is no finding and no proof that they have been or were unable at any time to procure an adequate and proper distribution and sale of their magazines in any locality, and no proof and no finding that any competitor of the respondent suffered any injury through any policy or method of trade practiced by the respondent; it appearing by the uncontradicted evidence that the particular competitors of the respondent referred to have themselves acted in an unfair and unlawful manner in endeavoring, by misrepresentations and other unlawful means, to induce many of the respondent's agents to take up the wholesaling of their publications, notwithstanding the fact that in the

same cities or towns there were other established magazine and periodical wholesalers as competent and well equipped, and in many instances more so, than respondent's agents, all of which facts, clearly proven and uncontradicted, have been disregarded and totally ignored by the commission in its said findings.

7. The finding of fact contained in paragraph three of said findings that "the respondent has made sales of its magazines to, or entered into contracts for the sale of the same with, certain persons, partnerships, or corporations by the terms of which sales or contracts for such sales, such persons, partnerships, or corporations have agreed, among other things, not to act as agent for or supply at wholesale rates any periodicals other than those published by the publisher" without the written consent of such publisher, is not supported by the evidence, it clearly appearing by the evidence that the contracts introduced in evidence, under which the respondent has at all times acted, are in operation and effect contracts of agency, and not contracts of sale, the evidence further showing that the persons now distributing the respondent's magazines are, in law and in fact, agents of the respondent, and that there is not in force or in effect any contract of sale between the respondent and its said agents, nor any relation of seller and purchaser existing between the respondent and its said agents; and the said finding is not supported by the evidence and forms no proper basis for the conclusion found by the commission, that, by reason of the making and enforcing of its contracts with its agents, the respondent is violating the provisions of section 3 of the act of Congress, approved October 15th, 1914, commonly called the Clayton Act.

The finding of fact contained in paragraph three of said findings that approximately 447 so-called dealers are, and previous to entering into contract with the respondent were, regularly engaged in the business of wholesale dealers in newspapers or magazines, is not supported by the evidence, as is shown in subdivision 1 hereof, with reference to the similar finding in paragraph two of said findings.

9. The finding of fact contained in paragraph three of said findings that "many others," in addition to the 447 so-called dealers referred to therein, have become wholesale dealers in newspapers or magazines, or both, since entering into such contracts with the respondent is not supported by the evidence as is shown in subdivision 2 hereof, with reference to the similar finding in paragraph two of said findings.

10. The finding of fact contained in paragraph three of said findings that many of the 447 so-called dealers and many others who have become such wholesale dealers requested the respondent's permission to engage also in the wholesale distribution of certain publications competing with those of the respondent is not supported by the evidence as is shown in subdivision 3 hereof, with reference to the similar finding in paragraph two of said findings.

11. The finding of fact contained in paragraph three of the said findings that in enforcing said contract provision as to said dealers

and in denying them permission to wholesale other periodicals, "respondent has prevented and now prevents certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers" is not supported by the evidence, for the reasons stated in subdivision 4 hereof, with reference to the similar finding in paragraph two of said findings.

12. The finding of fact contained in paragraph three of said findings "that such established channels of distribution are in most instances the principal and most efficient, and in numerous cases, the only medium for the distribution of such publications in the various localities of the United States" is not supported by the evidence for the reasons set forth in subdivision 5 hereof, with reference to the similar finding in paragraph two of said findings.

13. The finding of fact contained in paragraph three of the findings "that the effect of said contract provision has been, and is, to substantially lessen competition with respondent's magazines and tends to create for the respondent a monopoly in the business of publishing magazines of the character of those published by respondent" is not in any way supported by the evidence, the evidence showing on the contrary that the competitors of the respondent have at all times been able to obtain and have obtained, without any difficulty, wholesale distributors for their magazines and periodicals throughout the United States, other than the respondent's agents, through whom they have obtained and now enjoy an unlimited, adequate and full sale and distribution of their magazines and periodicals, and through whom the circulations of the magazines of said complaining competitors have largely increased; the evidence further showing that all of the channels of distribution hitherto enjoyed and utilized by the publishers of magazines and periodicals are still open to all such publishers, including the competitors of the respondent referred to.

Fourth. On the ground that the findings as to the facts upon which the order herein is based fail to disclose the true situation, as shown by the testimony, with respect to the respondent's relations with its wholesale agents, and the situation with respect to magazine distribution generally in the United States, and are inadequate, incomplete and insufficient in that the following material and important facts, among others, conclusively proven before the commission, have been utterly disregarded and ignored by the commission:

1. That prior to 1899, the American News Company furnished the only means for the wholesale distribution of magazines and periodicals, and has ever since that time maintained an efficient channel for the distribution of magazines, periodicals, and newspapers throughout the United States, which is now open to all publishers for the sale and distribution of their publications and is now utilized exclusively for the wholesale distribution of more than four hundred magazines and periodicals.

2. That prior to 1899, the respondent and all of the publishers of magazines, periodicals, and newspapers utilized the facilities of the

American News Company exclusively in the sale and distribution of their publications.

3. That beginning with the year 1899 the respondent, on its own initiative and at its own expense, created an organization for the distribution of its own publications throughout the country, and that as a part of this organization it gradually established its own agents in various localities in the United States.

4. That at that time there was no class of so-called magazine wholesalers in existence.

5. That the agents established by the respondent were drawn from all walks of life, including storekeepers, boys, newspaper dealers, druggists, school teachers, women, and in some instances persons wholesaling newspapers.

6. That as part of this organization the respondent created and built up an organization of boy distributors who received the respondent's periodicals from, and reported directly to, the respondent's agents in the various localities, and which number of boy distributors has increased to the number of 35,000 to 40,000 at the present time.

7. That in the establishment of this system the respondent has expended vast sums of money, and at the present time is expending upwards of one million dollars a year in the maintenance of its organization of agents and boy distributors

8. That this organization now includes the services of 1,375 so-called district agents in the United States, who have under their supervision, care, and control between 35,000 and 40,000 boy distributors. That of this number, 1,273 of the agents were wholesaling no other magazines or periodicals at the time they became the respondent's agents, and that of this number 1,009 of the respondent's agents, at the present time, wholesale no other magazines or periodicals.

9. That the respondent's said 1,375 agents render to it exacting and material service in connection with the organization of boy distributors entirely inconsistent with any theory of a mere sale of the respondent's publications to the persons acting as such agents.

10. That the respondent, in cases where it, in later years, appointed as its agent a person wholesaling a magazine or magazines, never sought to prevent such person from continuing to wholesale the magazine or magazines handled by him prior to his entering into the respondent's contract.

11. That several other magazine publishers thereafter, following the respondent's lead, proceeded to distribute their magazines through various local wholesalers obtained by them, and that thereby the so-called class of magazine wholesalers came into existence.

12. That in practically all of the towns and cities of the United States in which the respondent has its agents, there are wholesalers of newspapers other than the respondent's agents, and that in the great majority of the cities and towns of the United States, there are other competent and efficient wholesalers of magazines and periodicals other than the agents of the respondents.

13. That in the 1,253 towns and cities in the United States in which the respondent has its agents, in only 281 of the towns is there one wholesaler only, of either magazines or newspapers, and that the one wholesaler in 109 of these 281 towns wholesales only the respondent's publications, and that in 253 of these 281 towns the one wholesaler wholesaled the respondent's publications before he wholesaled any other magazines.

14. That of the said 1,253 towns and cities there are only 241 towns in which there is only one magazine wholesaler who wholesales magazines other than the respondent, and that in 169 of these 241 towns, the magazine wholesalers were started in the magazine wholesaling business by the respondent and wholesaled no magazines at the time they became the respondent's agents.

(NOTE: In compiling the figures given in paragraphs 13 and 14 those persons who wholesale only the Pictorial Review or the publications of the Crowell Publishing Company, or both, were not included as wholesalers in order that the compilation might fairly represent the situation irrespective of those publications. If such wholesalers be included, the figures will be more favorable to respondent's contention, for the number of other wholesalers will be materially increased.)

15. That early in the year 1917 the Pictorial Review Company and the Crowell Publishing Company, which previously had for many years distributed their publications through the American News Company, endeavored by misrepresentations, subterfuge, and other unlawful and unfair methods to avail themselves of and to obtain for their own purposes the organization created, built up and maintained by the respondent, and particularly endeavored to obtain for themselves the services of the large force of boy distriubtors created, built up, and maintained by the respondent, and supervised and directed in their operations by the various agents of the respondent.

16. That these activities and attempts on the part of the Pictorial Review Company and the Crowell Publishing Company were, in many instances, directed at persons who wholesaled and handled only the respondent's publications, while at the same time there was in the same city or town another established magazine wholesaler, or well-equipped newspaper wholesaler, for the distribution of magazines and periodicals.

17. That the Pictorial Review Company and the Crowell Publishing Company, competitors of the respondent referred to in the findings as to the facts herein, as is shown by the testimony of the commission's own witnesses, obtained without difficulty, competent, efficient, and satisfactory wholesalers to wholesale and distribute their magazines in every city and town in the United States, where desired and where they had failed to induce the respondent's agents to violate their contracts with respondent, and that as a result the circulations of the magazines and periodicals of the said two publishers has steadily increased, and that the action of the respondent under its said contracts has in no way impaired or limited the circulations of the periodicals of these said two competitors of the respondent.

18. That the respondent's contract with its agents does not contain any clause restricting them in any way either in the wholesaling of newspapers or in the retailing of either newspapers or magazines, and the respondent's agents are free at all times to sell any magazines or periodicals at retail to the public, if they so desire, without any objection on the part of the respondent.

19. That the respondent's refusal to grant permission to its various agents to wholesale the publications of the two competing publishers referred to was due to and was justified by the unlawful and unfair activities of the said two publishing companies, which threatened to undermine and destroy the respondent's entire organization of district agents and boy distributors, and it was not due to any desire or intent or purpose on the part of the respondent to restrict, suppress, or in any way limit the circulations of the magazines of the said two publishing companies; said findings of fact failing to find any purpose or intent on the part of the respondent to suppress competition in interstate commerce by its acts of conduct complained of.

20. That the contract now in existence and in force between the respondent and its various agents is a contract of agency and not a contract of sale; but the commission in its said findings avoids making and fails to make any distinct finding as to whether such contract is a contract of agency, as is alleged in the amended complaint, or is a contract of sale, but seeks to avoid any such finding by the use of vague and indefinite language, holding in paragraph two of its said findings, for one purpose, that it is in effect an agency contract, and in paragraph three of its said findings, for another purpose, that it is in effect a contract of sale.

Fifth. On the ground that the conclusions found by the commission upon which the said order is based are erroneous and unjustified for the following reasons:

1. That the said conclusions are based upon erroneous, inadequate, and insufficient findings of fact which presuppose conditions to exist in the conduct of the respondent's business and with respect to magazine and newspaper wholesalers and distributors throughout the country, which are not supported by and are contrary to the weight of the evidence taken in this proceeding.

2. That the conclusion of the commission "that the method of competition set forth in paragraph two of said findings is, under the circumstances therein set forth, in violation of the provisions of section 5 of an act of Congress approved September 26, 1914," known as the Federal Trade Commission law, is not warranted to be drawn from the findings as to the facts made by the commission and that the commission has no jurisdiction to make the order in this proceeding founded on such conclusion, for the reason that there is no finding of fact and no proof in this proceeding that the public has been or is injured or affected in any manner by the respondent's contracts with its agents, or by any acts of the respondent thereunder, as found by the commission, or that it would be to the interest of the public that the respondent's method of conducting its business under its said con-

tracts be stopped; the findings of fact, on the contrary, stating that the respondent's acts, as found, affect only "certain of its competitors," and the evidence showing that such competitors, claiming to be so affected, are the Pictorial Review Company, which made the complaint on which this proceeding was begun, and the Crowell Publishing Company, both of which, as was shown by the testimony, had engaged in unlawful and unfair methods in their attempts to appropriate the respondent's distributing organization; the proof further showing that there are publishers of upwards of four hundred other magazines and periodicals, comprising some of the largest and most important magazines and periodicals in the country, who have made no complaint herein and have not in any way participated in this proceeding, with the exception of Collier's Weekly, one of whose representatives testified in the proceeding.

3. That the conclusion of the commission "that the acts and conduct set forth in paragraph three of said findings are, under the circumstances therein set forth, in violation of the provisions of section 3 of an act of Congress approved October 15, 1914," known as the Clayton Act, is not warranted to be drawn from the evidence and the findings as to the facts made by the commission, for the reason that the evidence conclusively shows that the contract in effect between the respondent and its agents, under which they act as wholesale distributors for the respondent, is a contract of agency, in law and in fact, and is not a contract of sale; and for the reason that the evidence fails to show that the effect of the respondent's said contract or any act of the respondent thereunder substantially lessens competition or tends to create a monopoly in commerce, or may do so, or that the respondent was prompted in any of its acts under the said contract by any intent or purpose to suppress competition in interstate commerce, as is charged in the amended complaint herein.

Sixth. On the ground that the commission has no jurisdiction to make the order in this proceeding, for the reason that it does not appear in the findings as to the facts or in the evidence taken in this proceeding, that this proceeding was begun, prosecuted, or determined in the interest of the public, or that any public interest is involved or in any way affected by the contract, acts, or conduct of the respondent herein.

Seventh. On the further ground that the said order of the Federal Trade Commission is arbitrary, unjust, and prejudicial to the respondent and is not justified or warranted by the evidence taken in this proceeding.

The order provides that the respondent shall cease and desist from entering into any contracts with any persons "who are already engaged in the sale or distribution of the magazines or newspapers, or both, of other publishers," which provide that such persons shall not "act as agents for, or sell, or supply to others at wholesale rates, any periodicals other than those of respondent without the written consent of respondent"; and from entering into any contracts with any persons "already engaged in the sale or distribution of the

magazines or newspapers, or both, of other publishers," which provide that such persons shall not sell or distribute or shall not continue to sell or distribute the magazines or newspapers, or both, of other publishers; and from enforcing any provision which may be contained in any of respondent's outstanding contracts with any persons "now engaged in the sale or distribtuion of magazines or newspapers, or both, of other publishers," which provide that such persons "shall not sell or distribute the magazines or newspapers, or both, of other publishers, or shall not sell or distribute the magazines or newspapers, or both, of other publishers without the written consent of respondent."

This order contains three separate and distinct prohibitions:

1st. That the respondent shall cease and desist from entering into its present form of contract with any person who may sell or distribute either magazines or newspapers either at wholesale or retail.

2nd. That the respondent shall not enter into any contract with any person who sells or distributes either magazines or newspapers, either at wholesale or retail, which shall contain any provision designed to prevent such person from selling or distributing the magazines or newspapers, or both, of any other publisher either at wholesale or retail.

3rd. That the respondent shall not enforce any provision contained in its present outstanding contracts with any person who sells or distributes magazines or newspapers, or both, either at wholesale or retail, which provides that such person shall not sell or distribute the magazines or newspapers, or both, of other publishers either at wholesale or retail, without the written consent of the respondent, or otherwise.

The business of distributing newspapers and magazines to the public has fallen into the following channels:

(*a*) Newspaper wholesalers, i. e., those who sell newspapers at wholesale prices to the retail trade, news stands, etc.

(*b*) Magazine wholesalers, i. e., those who sell magazines and periodicals at wholesale prices to the retail trade, news stands, etc.

(*c*) General wholesalers, i. e., those who sell both magazines and newspapers to the retail trade.

(*d*) Newspaper retailers, i. e., those who sell newspapers only to the public.

(*e*) Magazine retailers, i. e., those who sell magazines only to the public.

(*f*) General retailers, i. e., those who sell both magazines and newspapers to the public.

The amended complaint, in paragraph three, specifically charges and the whole proceeding is founded on allegations that the respondent excluded certain other magazine publishers from access to numerous wholesale distributors of weekly and monthly periodicals, and no mention is made in the complaint or in the amended complaint of wholesalers or retailers of newspapers only, but the order

includes in its inhibition not only all those who wholesale magazines, but also the vast number of newspaper wholesalers throughout the United States who have never wholesaled any magazines or periodicals and who are not, in any sense, magazine wholesalers; and, indeed, the order is so loosely drawn and worded that it might well be claimed to include, as well, both magazine and newspaper retailers. Disregarding the possible inhibition as to retailers as being obviously far beyond the scope of this proceeding, the effect of the order is shown by the following illustrations:

(*a*) In the city of A the respondent employs an agent who wholesales a single newspaper but no magazines or periodicals; there are several large magazine wholesales in the city as well as other newspaper wholesalers; yet the respondent's contract in its present form is prohibited.

(*b*) In the city of B the respondent has an agent who was not wholesaling either magazines or newspapers at the time of his appointment, but who, after entering into the respondent's contract, undertakes to wholesale a single newspaper but no other magazines, there being nothing in the respondent's contract to prohibit this; there are efficient and well-established magazine wholesalers, and also newspaper wholesalers, in the city; yet the respondent's contract in its present form is prohibited.

(*c*) In the city of C the respondent's agent, who wholesaled no magazines or newspapers at the time of his appointment, undertakes, after entering into the respondent's contract, to wholesale one other magazine; there are other large and efficient magazine wholesalers in the city, able and ready to distribute any magazines at wholesale; yet the respondent's contract in its present form is prohibited.

The order, it will thus appear, even when limited to the wholesaling of magazines alone, is unfair, unjust, and prejudicial to the respondent, and unnecessary in the protection of any public right or interest; and when extended, as it apparently is, to apply, in its prohibition, to the vast number of wholesalers of newspapers only, and possibly to retailers of all kinds, it imposes a prohibition on the respondent not only unjust and unfair in every respect but also far beyond the scope of the charges contained in the amended complaint herein, and unjustified by any evidence in this proceeding.

Wherefore, your petitioner prays for a review by this honorable court of the said order of the Federal Trade Commission and of the findings as to the facts and conclusions upon which said order is based, and that the said order of the Federal Trade Commission be set aside for the reasons and upon the grounds hereinbefore stated; and your petitioner further prays for an order of this honorable court directing the said Federal Trade Commission to forthwith certify and file in this court, with the clerk thereof, a transcript of the entire record in this proceeding, including all the testimony taken and all statements and exhibits separately filed with said commission and made a part of the record in this proceeding, together with the report, findings as to the facts, conclusions and order of the said

commission; and your petitioner prays for such other and further relief in the premises as may be just and equitable.

Dated, Philadelphia, Pennsylvania, September 26, 1919.

CURTIS PUBLISHING COMPANY,
C. H. LUDINGTON,
Vice President-Treasurer.

PRICHARD, SAUL, BAYARD & EVANS.
M. B. SAUL.

STATE OF PENNSYLVANIA,
County of Philadelphia, ss:

C. H. Ludington, being duly sworn according to law, deposes and says: I am the vice president and treasurer of the Curtis Publishing Company, the petitioner herein, and have read the said petition, and that the facts set forth in said petition are true.

C. H. LUDINGTON.

Subscribed and sworn to before me this 26th day of September, 1919.

[SEAL.] CHARLES E. JOHNSON, *Notary Public.*

My commission expires January 7, 1923.

Complaint.

EXHIBIT A.

UNITED STATES OF AMERICA,
Before Federal Trade Commission, ss:

At a regular meeting of the Federal Trade Commission held at its office in the city of Washington, D. C., the 5th day of July, A. D. 1917.

Present: William J. Harris (chairman), Joseph E. Davies, William B. Colver, J. Franklin Fort, Commissioners.

FEDERAL TRADE COMMISSION
v.
THE CURTIS PUBLISHING CO. } Docket No. 15.

Complaint in the matter of the alleged violation of section 5 of the act of Congress approved September 26, 1914, and of the alleged violation of section 3 of the act of Congress approved October 15, 1914.

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that the Curtis Publishing Company, hereinafter referred to as respondent, has been, and is, using unfair methods of competition in interstate commerce in violation of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, define its

powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE. That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, in said State, and is now and was at all times hereinafter mentioned and for many months prior thereto engaged in the publication, sale, and circulation of weekly and monthly periodicals in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That with the intent, purpose, and effect of stifling and suppressing competition in interstate commerce in the publication, sale, and circulation of such periodicals the respondent now refuses and for several months last past has refused to sell its periodicals and publications to any dealer who will not agree with the respondent that he will not sell or distribute the periodicals and publications of certain of the competitors of the respondent to other dealers or distributors.

II.

The Federal Trade Commission having reason to believe from a preliminary investigation made by it that the Curtis Publishing Company, hereinafter referred to as respondent, has violated and is violating the provisions of section 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE. That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, in said State, and is now and was at all the times hereinafter mentioned and for many months prior thereto engaged in the publication, sale, and circulation of weekly and monthly periodicals in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That the respondent, the Curtis Publishing Company, for several months last past, in the course of interstate commerce, has sold and made contracts for sale and is now selling and making contracts for sale of large supplies of its publications and periodicals for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed and is now fixing the price charged therefor on the condition, agreement, or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of

COPY BOUND CL

respondent, and that the effect of such sales and contracts for sale, or such conditions, agreements, or understandings may be and is to substantially lessen competition and to tend to create a monopoly.

Therefore, notice is hereby given you, the said The Curtis Publishing Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the Commerce Building in the city of Washington, D. C., on the 23rd day of August, A. D. 1917, at 10.30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violations of law charged in this complaint.

And you will further take notice that within thirty (30) days after service of this complaint you are required to file with the commission an answer in conformity with Rule III of the Rules of Practice before the commission.

In witness whereof the Federal Trade Commission has caused this complaint to be issued, signed by its secretary, and its official seal to be affixed hereto at the city of Washington, D. C., this 5th day of July, A. D. 1917.

By the commission:

[SEAL.]

LEONIDAS L. BRACKEN,
Secretary.

EXHIBIT B.

UNITED STATES OF AMERICA,
Before Federal Trade Commission:

At a regular meeting of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 8th day of April, A. D. 1918.

Present: William J. Harris (chairman), William B. Colver, John Franklin Fort, Victor Murdock, commissioners.

FEDERAL TRADE COMMISSION *vs.* THE CURTIS PUBLISHING CO.	Docket No. 15 (amended).

Complaint in the matter of the alleged violation of section 5 of an act of Congress approved September 26, 1914, and of alleged violation of section 3 of the act of Congress approved October 15, 1914.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Curtis Publishing Company, hereinafter referred to as respondent, has been, and is, using unfair methods of competition in interstate commerce in violation of section 5 of the act of Congress approved September 26, 1914,

CLOSE IN CENTER

entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE. That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, in said State, and is now and was, at all the times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale, and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That with the intent, purpose, and effect of stifling and suppressing competition in interstate commerce in the publication, sale, and circulation of such periodicals, the respondent now refuses, and for several months last past has refused, to sell its periodicals and publications to any dealer who will not agree with the respondent that he will not sell or distribute the periodicals and publications of certain of the competitors of the respondent to other dealers or distributors.

PARAGRAPH THREE. That with the intent, purpose, and effect of stifling and suppressing competition in interstate commerce in the publication, sale, and circulation of weekly and monthly periodicals the respondent is making, and for several months last past has made, contracts with numerous wholesale distributors of periodicals, wherein and whereby said distributors are required to agree to handle and distribute the periodicals of the respondent as agent of such respondent, and also are required to agree therein not to handle or distribute the periodicals or magazines of any other publisher without the permission of the respondent; that a large percentage of such wholesale distributors were formerly under a sales contract with respondent, the terms of which are practically similar to those incorporated in said contract of agency; that the wholesale distributors who have made such contracts with respondent are the principal and most efficient, and in many cases the only, medium for the proper distribution of weekly and monthly periodicals in the various localities throughout the United States.

II.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Curtis Publishing Company, hereinafter referred to as respondent, has violated, and is violating, the provisions of section 3 of the act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against

unlawful restraints and monopolies, and for other purposes," issues this complaint, stating its charges in that respect on information and belief as follows:

PARAGRAPH ONE. That the respondent, the Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, in said State, and is now and was at all times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale, and circulation of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That the respondent, the Curtis Publishing Company, for several months last past, in the course of interstate commerce, has sold and made contracts for sale, and is now selling and making contracts for sale, of large supplies of its publications and periodicals for use and resale within the United States and the Territories thereof and the District of Columbia, and has fixed, and is now fixing, the price charged therefor on the condition, agreement, or understanding that the purchasers thereof shall not use or deal in the publications or periodicals of a competitor or competitors of respondent, and that the effect of such sales and contracts for sale, or such conditions, agreements, or understandings, may be and is to substantially lessen competition and to tend to create a monopoly.

Therefore notice is hereby given you, the said Curtis Publishing Company, that the charges of this complaint will be heard by the Federal Trade Commission at its office in the Federal Trade Commission Building, in the city of Washington, D. C., on the 16th day of April, A. D. 1918, at 10.30 o'clock in the forenoon of said day, or as soon thereafter as the same may be reached, at which time and place you shall have the right to appear and show cause why an order should not be entered by the Federal Trade Commission requiring you to cease and desist from the violations of law charged in this complaint.

And you will further take notice that within thirty (30) days after service of this complaint you are required to file with the commission an answer in conformity with Rule III of the Rules of Practice before the commission.

In witness whereof the Federal Trade Commission has caused this complaint to be issued, signed by its secretary, and its official seal to be affixed hereto at the city of Washington, D. C., this 8th day of April, A. D. 1918.

By the commission:

[SEAL.]

LEONIDAS L. BRACKEN,
Secretary.

JOHN WALSH,
Chief Counsel.

Answer.

EXHIBIT C.

UNITED STATES OF AMERICA,
Before Federal Trade Commission:

FEDERAL TRADE COMMISSION
vs.
THE CURTIS PUBLISHING COMPANY. } Docket No. 15.

The Curtis Publishing Company, the respondent above named, answers the amended complaint of the Federal Trade Commission in the matter of an alleged violation of section 5 of the act of Congress approved September 26, 1914, and of an alleged violation of section 3 of the act of Congress approved October 15, 1914, as follows:

PARAGRAPH ONE. The respondent admits each of the allegations contained in paragraph one of subdivision I of the amended complaint herein.

PARAGRAPH TWO. The respondent denies each and every allegation contained in paragraph two of subdivision I of the amended complaint herein and alleges that the respondent has for many years past, in addition to the distribution of its said publications through private subscription, distributed its said publications almost exclusively through the medium of an organization, hereinafter in this answer more specifically described, created and maintained by the respondent for the distribution and sale of its said publications, which organization consists of numerous district agents employed by it in various cities and towns throughout the United States and a large force of boys who are under the supervision and direction of such district agents, and through which organization it has for many years sold and distributed its various publications to the public, using in addition thereto to a very limited extent the services of the American News Company, and that respondent does not and has not for many years past sold its said publications to dealers generally for sale or distribution by them to others; that in supplying its said district agents with its various publications for distribution and sale through and by means of said organization it entered into a contract with its said district agents in the form hereto annexed and marked "Exhibit A," which said contract was designed and intended to govern the relations between the respondent, as principal, and its said district agents, as agents, and which has continued in existence between the parties, except as hereinafter stated in paragraph three hereof; and the respondent further alleges that it has given its approval in some instances in accordance with the terms of the contract referred to as Exhibit A of the sale and distribution by such agents at wholesale of periodicals and publications other than those of respondent to dealers or distributors, and that in other instances the respondent's approval has been refused, such refusal by the re-

spondent being based either upon the fact that the said agents were not in a position to handle additional business or upon the fact that to approve of such agents handling the publications of others would place at the disposal of such other persons for the distribution of their publications, to the injury of the respondent and its business, the organization of district agents and boys originated, created, and maintained by the respondent at large expense for its own use and benefit. That in entering into said contracts with its said agents and in refusing to give its approval in certain instances to its said agents to handle other periodicals and publications it has been and is the purpose and intention of the respondent only to preserve to itself the benefits of the said organization created many years ago and since maintained by it at great expense and not in any way to curtail, limit, or impair the free sale and distribution of the periodicals and publications of others; and the respondent further alleges that the other publishers of periodicals and magazines have and for many years past have had ample and efficient means of distributing and selling their periodicals and publications to and among the retail dealers in the cities and towns of the United States without using or encroaching upon the said organization created and maintained by the respondent; and that the retail dealers in magazines and periodicals in the various cities and towns of the United States have ample sources of supply of magazines and periodicals and efficient means of obtaining the same other than through the respondent's said organization, and have at all times been able to obtain such magazines and periodicals as they desire to handle, including those of any of the so-called competitors of the respondent, from other sources than through the said organization of the respondent.

PARAGRAPH THREE. The respondent denies each and every allegation contained in paragraph three of subdivision I of the amended complaint herein, except that it admits and alleges that since the commencement of this proceeding the respondent has entered into a contract with the majority of its said district agents, hereinbefore in paragraph two referred to and described, in the form hereto annexed and marked "Exhibit B," in order to more precisely prescribe the real relation existing between the respondent and its said agents and to obviate the possibility of any misunderstanding as to the character of that relationship that might arise by reason of any misconstruction of the contract hereinbefore referred to as Exhibit A; and that the purpose, object, and intent of the respondent with respect to said contract marked Exhibit B are the same as set forth in paragraph two herein, to which reference is hereby made.

II.

PARAGRAPH ONE. The respondent admits each of the allegations contained in paragraph one of subdivision II of the amended complaint herein.

PARAGRAPH TWO. The respondent denies each and every allegation contained in paragraph two of subdivision II of the amended complaint herein, and respondent alleges that it is the owner and publisher of the periodicals known as the Saturday Evening Post, the Ladies Home Journal, and the Country Gentlemen, having acquired the latter periodical in 1911; that prior to the year 1899 the respondent distributed its two first-named publications to the public direct by mail to subscribers and also through the agency of the American News Company, a corporation engaged in furnishing various periodicals to the different newsstand dealers throughout the country for sale and distribution by them to the general public. That in the year 1899, for the purpose of providing a more efficient means of distributing its publications, the respondent devised the scheme of selling the Saturday Evening Post direct to the public through the medium of a large number of boys locally employed throughout the country as agents in the distribution of the paper. This scheme was gradually extended to include all of the respondent's said publications and was developed by appointing various district agents in the cities and town of the United States for the purpose of supervising, teaching, and directing the sales of said publications through and by the boy distributors. The first district agents were so appointed by the respondent in 1902 and since that time the number has been increased as the necessity therefor required, until at the present time there are approximately 1,532 such district agents employed by the respondent, who, jointly with the said boy distributors, now numbering approximately 35,000, take care of the distribution and sale of the said publications of the respondent to the public and to the various retail dealers in the various localities assigned to each agent; that this method of distribution as a whole comprises the joint activities of the said district agents and the boy distributors and depends for its efficiency and operation upon their relationship to each other and to the respondent; that the relation between the respondent and its said district agents is and always has been one of agency and has been and is covered by the said district agency agreements existing as hereinbefore in this answer set forth, which are and always have been in substance, operation, and effect contracts of agency; that said district agency agreements do not apply to or in any way affect the retail trade of the respondent's said agents in the sale and distribution of periodicals and magazines generally which they may desire to handle.

All of which matters and things in this answer this respondent is ready and willing to aver, maintain, and prove as this honorable commission shall direct, and prays that the said amended complaint be dismissed.

THE CURTIS PUBLISHING COMPANY.
By ——— ———, *Vice President.*

Exhibit A of answer to amended complaint.

DISTRICT AGENCY AGREEMENT.

Form JDA3—a.

What the Publishers Will Do.

Witnesseth, that the publishers hereby covenant and agree:

Territory. 1. To appoint the said party of the second part as district agent for the Saturday Evening Post, the Ladies' Home Journal, and the Country Gentleman, in and for the city of ———, State of ———, for the period hereinafter described, to commence either with the Saturday Evening Post and the County Gentleman, dated ———, 19—, and with the Ladies' Home Journal for the month of ———, 19—, or with later issues, at the option of the publishers. (This contract must be accompanied by one of the company's order blanks stating the number of copies desired of each of these issues.)

Rates. 2. To supply the district agent with copies of the Saturday Evening Post and of the Country Gentleman at two and one-half cents (2½ c.) each, and of the Ladies' Home Journal at nine and three-quarters cents (9¾ c.) each, transportation charges prepaid, provided that if the district agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to subagents and by sending on time the required fully itemized subagents' sales reports, or if the district agent fail to maintain a net sale of his quota of any one publication, as required by clause 8, the publishers may then charge three cents a copy for the Saturday Evening Post and for the Country Gentleman and eleven cents a copy for the Ladies' Home Journal, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security.

Returns. 3. To give credit to the district agent at the price paid for unsold copies returned in accordance with the regulations governing returns, as stated on the order blanks last issued by the company.

Shipments. 4. Of each publication to forward by mail, express, or freight, at the option of the publishers, copies ordered in advance, as hereinafter provided, at a time intended to secure delivery to the district agent one day before the sale date, provided that the district agent complies with clause 10.

Interest. 5. To pay the district agent interest at five per cent per annum upon the amount of the cash security remitted by him, as shown by clause 16.

Cash refund. 6. To credit to the account of or to return to the district agent after his fulfillment of his obligations under this agreement (of which the notice on the reverse side is

a part) his cash security: Provided, that if the district agent should fail to do as agreed, then his cash security with any accumulated interest may be appropriated by the publishers without notice.

What the District Agent Will Do.

Witnesseth, that the district agent hereby covenants and agrees:

Prepayment. 7. To remit in advance, either according to the schedule on the printed order blanks or by deposits sufficient to prepay for a month's supplies, and he hereby deposits with the publishers $——— as the first advance payment.

Net sales. 8. To sell at least ——— copies of each issue of the Saturday Evening Post, at least ——— copies of each issue of the Ladies' Home Journal, and at least ——— copies of each issue of the Country Gentleman;

Subagents. 9. To supply subagents, both boys and dealers, with the Saturday Evening Post and the Country Gentleman at three cents a copy for resale at five cents a copy, and with the Ladies' Home Journal at eleven cents a copy for resale at fifteen cents a copy, and to make deliveries early on the morning of the sale date;

Premature sales. 10. To refrain from displaying, delivering, or selling any copies to boys, dealers, or retail customers, before the authorized sale date, as specified on the printed order blank furnished by the publishers;

Trespassing. 11. To refrain from selling any copies in any territory known to be controlled by another agent under contract;

Imprints. 12. To prevent any firm or person from stamping or pasting any advertising notice upon any page of the district agent's copies and from inclosing any advertising circular therein, provided that the district agent or any subagent may stamp his name as agent for, or insert circulars intended solely to increase the sales of the Curtis publications;

Other periodicals. 13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by the Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis agents, without first obtaining the approval of the publishers;

Reports. 14. To send to the home office, on blanks furnished by the publishers, not later than directed by the report blanks, reports itemizing the number of copies of each publication sold by each boy, dealer, or other subagent, or sold at retail by the district agent or his employees, and to distribute prize vouchers regularly to subagents, according to instructions from the publishers, provided that price vouchers shall be given to subagents only and are not redeemable by the district agent nor by his relatives or salaried employees;

15. To pay any collect charge, not exceeding that for a ten-word telegram, from the publishers, concerning any remittance not received by the publishers and more than two days late from the district agent; and to send "collect" to the publishers a code telegram of a length not exceeding ten words to trace any shipment of 100 or more copies not received on or before the last day train on the sale date from a fully prepaid order by the district agent; Telegrams.

16. To permit the publishers to retain, throughout the life of this agreement, possession of the $——— herewith remitted by the district agent as cash security for his performance of his several obligations hereunder. Cash security.

How This Agreement May Be Terminated.

Witnesseth, that it is further agreed and understood by and between the publishers and the district agent:

17. That this contract shall continue in full force and effect on the above terms for at least one year following the date of ratification; Termination.

18. That the district agent may withdraw from this contract either at the end of or within the year and secure the return of his cash security with interest by doing all of these things: (*a*) By giving the publishers thirty days' notice of his intention to withdraw; (*b*) by obtaining a successor satisfactory to the publishers; (*c*) by obtaining and forwarding to the publishers the successor's signed contract, deposit, and security; and (*d*) by giving all his right, title, interest, and good will in the Curtis agency to the successor, including a written agreement to buy from the successor all copies the district agent may thereafter order; By agent.

19. That the publishers may terminate this contract without notice in case of strike, fire, flood, earthquake, change in the postal rate or in the retail price of any one of the three publications; or may at any time terminate it by giving at least thirty days' notice before cutting off supplies and by returning the security with interest; or may cancel the contract and appropriate the cash security should the district agent fail either to sell the quota number given in clause 8, for any one of the three publications, or fail in any other particular to do as herein agreed; By publishers.

20. That if the publishers send and the district agent accepts copies of one of the three publications of an issue later than the last within the first year of this agreement, then it shall continue in full force and effect for the second year, upon the same terms and with the same withdrawal conditions as for the first year, and in the event of holding over for a third year, or longer, either may withdraw during or after the third year according to conditions in clauses 18 and 19, respectively. Holding over.

In witness whereof the parties to these presents have hereunto set their hands.

1. The Curtis Publishing Company (the publishers), by ------ (representative).

2. ------ (district agent), ------ (Street).

WITNESS.

	Names.	Street addresses.
1.	----------	----------.
2.	----------	----------.

NOTICE.—If the intending agent is a minor, the signature of his parent or guardian must appear as district agent.

Notice to the Intending District Agent.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our representative you are strongly urged to read and to have a thorough understanding of each clause of this contract and of each requirement on the printed order blanks in use by the company.

No other than an officer of the company is empowered to modify or alter in any detail the terms of either this contract or the company's order blank. No branch manager, no traveling representative, or other field worker has such authority. It is understood that your acceptance of this contract is given only in consideration of the privileges detailed in the contract, not because of any additional verbal or other promises made by any person whomsoever.

Before you sign, understand that this contract places upon us no obligation to divert to you the orders of any dealers who may now be obtaining copies of the Curtis publications from the American News Company, or any of its branches; nor of any agents of the Home Pattern Company; or of certain railway news companies who may now be obtaining copies directly from our home office; nor does the contract contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This contract is offered to you by the publishers only because they believe you are the right man for the place. It is understood that by accepting the contract you signify your intention of devoting your own time and personal attention to the management of the agency and that you will not lease or sublet to another or transfer the management of the agency to another in any way, except as stipulated in the contract. Our ratification of the proposed contract will not make the agency yours to barter or sell without our sanction. Our ratification of the proposed agreement will give you only the rights specified in the contract—no more.

This contract will become binding upon the publishers when received and ratified by the home office—not before.

THE CURTIS PUBLISHING COMPANY,
Sales Division, Circulation Department,
Philadelphia, Pennsylvania.

Exhibit B of answer to amended complaint.

DISTRICT AGENCY AGREEMENT.

Form JDAS.

Agreement, dated ———, 19—, between the Curtis Publishing Company (hereinafter called the publisher) and ——— (hereinafter called the district agent).

Witnesseth, that the district agent is hereby appointed agent for the sale of the following publications of the publisher, viz: The Ladies' Home Journal, the Saturday Evening Post, and the Country Gentleman, for the following territory, viz: Territory.

upon the following terms and conditions:

1. Commencing with the issues of the Saturday Evening Post and the Country Gentleman dated ——— and with the Ladies' Home Journal for the month of ———, or with later issues at the publisher's option, the publisher will supply and consign to the agent such stock of the above publications as the publisher finds the district agent requires from time to time, provided the requisitions therefor are sent by the district agent according to the schedule issued by the publisher at times sufficiently in advance of publication to effect the proper delivery thereof, and provided such requisitions specifying the desired number of copies of each publication are sent upon the printed requisition blanks of the publisher, and provided the district agent has faithfully and punctually kept, up to the time of each requisition, the terms and conditions of this agreement. The title of said publications shall remain with the publisher until they are sold by the district agent. The said publications are to be forwarded by the publisher to the district agent (transportation charges prepaid) by mail, express, or freight, at the option of the publisher, at times intended to effect delivery to the district agent one day before the authorized publication dates as fixed from time to time by the publisher. Consignments.

2. The district agent will supply to boys and dealers copies of the Saturday Evening Post and of the Country Gentleman at the net wholesale rate of three cents (3 c.) a copy, for sale at five cents (5 c.) a copy, and copies of the Ladies' Home Journal at eleven cents (11 c.) a copy, for sale at fifteen cents (15 c.) a copy, and will Selling prices.

make deliveries of each of the said publications early on the morning of the authorized publication thereof. All retail sales made by the district agent shall be only at the prices of five cents (5 c.) a copy for the Saturday Evening Post and for the Country Gentleman and fifteen cents (15 c.) a copy for the Ladies' Home Journal. All sales must be for cash or at the risk of the district agent.

Sales promotion.

3. The district agent agrees that he will, at his own expense, provide a suitable place and appliances for the sale and distribution of the said publications; that he will use all reasonable efforts and devote the necessary time for promoting the sale of said publications and supplying the demand therefor; that without the written consent of the publisher he will not display, deliver, or sell any copies of any one of said publications before the authorized publication date, as specified in the printed requisition blanks, or dispose of any copies of said publications in the territory of any other district agent or special agent of the publisher, or act as agent for or supply at wholesale rates any periodicals other than those published by the publisher, or directly or indirectly furnish to any other publisher or agent the names and addresses of the persons to whom the publisher's publications are sold or delivered, or allow anyone to stamp, paste, or otherwise place on or in any of the publisher's publications or any part thereof any advertising matter, except that he may stamp his name as agent thereon and may insert circulars intended solely to increase the single-copy sale of the said publications.

Premature sales.

Trespassing.

Other periodicals.

Imprints.

Inserts.

Training boys.

4. The district agent shall, subject to the direction and the control of the publisher, train, instruct, and supervise such adequate force of boys within his district as has been or shall be organized by or under the instructions of the publisher for the purpose of distributing the said publications.

Commissions.

5. The publisher will allow the district agent as compensation the following commission:

(*a*) On copies supplied to boys and dealers at the rates hereinbefore specified a commission of one-half cent (½ c.) on each copy of the Saturday Evening Post and one and one-quarter cents (1¼ c.) on each copy of the Ladies' Home Journal, and on each copy of the Country Gentleman until June 29, 1918, one cent (1 c.)—thereafter one-half cent (½ c.).

(*b*) On sales made at retail a commission of two and one-half cents (2½ c.) on each copy of the Saturday Evening Post and five and one-quarter cents (5¼ c.) on each copy of the Ladies' Home Journal, and on each copy of the Country Gentleman until June 29, 1918, three cents (3 c.)—thereafter two and one-half cents (2½ c.); provided that said commissions shall be deemed earned and payable only as such copies as to which punctual and accurate reports are made by him in accordance with this agreement.

Returns.

6. The district agent will return to the publisher the cover pages or headings of all unsold copies of said publications, as a voucher that said copies remain unsold, and all copies of which such returns shall not have been delivered to the publisher within twenty-one days in the case of the Saturday Evening Post and of the Country Gentleman and within fifty days in the case of the Ladies' Home Journal, counting from the authorized publication dates, shall be conclusively presumed to have been sold by the district agent and on that basis shall be separately accounted for not later than the last of the said twenty-one days or fifty days, respectively.

Lost copies.

In case of loss (not including loss by theft) of any copies without negligence on the part of the district agent or his employees, the district agent may forward to the publisher proof of such loss by affidavits setting forth in detail the circumstances and mailed to the publisher within said twenty-one days or fifty days from the authorized publication dates, and if such proof is satisfactory to the publisher such lost copies shall be treated as returned unsold copies.

Copy requisitions.

7. The district agent agrees to mail his requisitions weekly and to send with each requisition, except the first, and upon blanks furnished by the publisher, a report itemizing by names and addresses of retailers both the number of copies of each publication in the consignments previously sold by the district agent either directly at retail or to boys and dealers and the number of copies unsold, together with a check or money order for the amount of such sales less his commissions, and for anything due on any separate accounting for copies not reported as sold or returned but as to which no unsold copies, cover pages, or headings shall have been returned within the time limited in paragraph 6 hereof. The district agent shall not be entitled to credit for returns before their receipt by the publisher unless after authorization as lost copies. Within a week after the authorized publication dates of the publications included in the final requisition sent under this agreement, the district agent shall send a similar report of the sales of the publications included in said requisition with a check or money order for the amount thereof less commissions. And the district agent agrees to distribute prize vouchers to boys and dealers according to instructions from the publishers, provided that prize vouchers shall not be redeemable by the district agent nor by his relatives or salaried employees.

Sales reports.

Settlements.

Prize vouchers.

Telegrams.

8. The district agent agrees to pay any collect charges for a telegram not exceeding ten words from the publisher concerning any settlement more than a day overdue, and to send collect to the publisher a telegram of a length not exceeding ten words to trace any consignment of one hundred or more copies not received on or before

the first day train on the authorized publication date, provided the district agent has fully complied with the conditions of this agreement.

Net sales.

9. The district agent guarantees that during the continuance of this agreement he will sell at least ——— copies of each issue of the Saturday Evening Post, at least ——— copies of each issue of the Ladies' Home Journal, and at least ——— copies of each issue of the Country Gentleman.

Termination.

10. This agreement shall not become binding on the publisher until the publisher has ratified it in writing at the home office in Philadelphia. It shall be for the term of ——— from the date of such ratification unless otherwise terminated under its provisions and shall continue thereafter from year to year unless otherwise so terminated. Unless either party gives to the other thirty days' notice prior to the termination of the ——— or any subsequent year, the agreement shall continue for another year, and so on from year to year.

By the publisher.

11. In case of war, embargo, strike, fire, flood, earthquake, change in the postal rates or in the retail price of any one of the said publications, or in case of breach by the district agent of any of his obligations or guarantees hereunder, the publisher may terminate without notice. The publisher may also terminate on thirty days' previous notice given to the district agent.

By the agent.

12. The district agent may terminate at any time by giving thirty days' notice by mail to the publisher prior to such termination, provided he obtains a successor satisfactory to the publisher and forwards the successor's acceptance of an agreement in form similar to this agreement, together with such successor's cash security, and provided further that the district agent will give to such successor a written agreement not to deal at wholesale in any of the said three publications in said agency territory for a period of thirty days from the date of ratification of such transfer of the agency.

Cash security.

13. In consideration of this agreement of employment the district agent will deposit with the publisher, on or before the date of his first requisition hereunder, the sum of $------. On said sum, until the termination of the agency, the publisher shall allow and pay the district

Interest.

agent annual interest at the rate of five per cent per annum. At the termination of the agency, if the district agent shall have faithfully performed all the conditions, stipulations, and guarantees of this agreement, the publisher will return to him said sum with all unpaid interest thereon. If the district agent shall not have kept all the several conditions, stipulations, and guarantees by him to be performed, this sum may be retained by the publisher as liquidated damages, but its retention shall not deprive the publisher of any other remedy for such breach. Failure of the publisher to enforce any

rights in case of one or more defaults of the district agent shall not be a waiver of such rights or of any subsequent defaults.

Executed by the parties hereto the day and year first above written.

THE CURTIS PUBLISHING COMPANY,

_____
(By representative.)

_____
(The district agent.)

_____
(Street address.)

NOTE.—If the intending agent is a minor, a parent or guardian must sign as district agent.

Notice to the Intending District Agent.

A sound business policy requires that we agree in advance upon terms to which each of us shall adhere.

Before you sign as our agent you are strongly urged to obtain a thorough understanding of each clause of this agreement, and of the mailing schedule and of the printed requisition and settlement blanks of the publisher.

No other than an officer of the publisher is empowered to modify or alter in any detail the terms of either this agreement or the publisher's requisition and settlement blank. No branch manager, traveling representative, or other field worker has such authority. It is understood that your acceptance of this agreement is given only in consideration of the commissions and the privileges detailed in the agreement, not because of any additional verbal or other promises made by any persons whomsoever.

Before you sign, understand that this agreement places upon us no obligation to divert to you the orders of any dealers who may prefer to obtain copies of the Curtis publications from the American News Company or any one of its branches, nor of certain railway news companies who may now be obtaining copies directly from our home office or one of our branch offices, and that this agreement does not contemplate our terminating the activities of any subscription representative who may now be soliciting or who may hereafter solicit in your city.

This agreement is offered to you by us only because we believe you are qualified to act as agent for the territory. It is understood that by accepting the agreement you signify your intention of devoting your own time and personal attention to the conduct of the agency and that you will not lease, sublet, or transfer the management of the agency to another in any way except as stipulated in the agreement. Our ratification of the proposed agreement will not authorize you to barter or sell the agency; it will give you only the rights specified in the agreement—no more.

The agreement will become binding upon us when received and ratified in writing at our home office—not before.

THE CURTIS PUBLISHING COMPANY,
Sales Division, Circulation Department,
Philadelphia, Pennsylvania.

Commission's report.

EXHIBIT D.

UNITED STATES OF AMERICA,
Before Federal Trade Commission, ss:

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 21st day of July, A. D. 1919.

Present: John Franklin Fort (chairman), Victor Murdock, Huston Thompson, William B. Colver, commissioners.

FEDERAL TRADE COMMISSION
vs.
CURTIS PUBLISHING COMPANY. } Docket No. 15.

Report, Findings as to the Facts, and Conclusions.

A complaint having been issued by the Federal Trade Commission in the above-entitled proceeding, and the respondent therein named having filed its answer herein, and evidence having been adduced by the respective parties to said proceeding, and the commission having considered the same, together with the written briefs and arguments and the oral arguments of the attorneys for the said parties, and the commission being now fully advised in the premises, reports and finds as follows:

Findings as to the Facts.

PARAGRAPH ONE. That the respondent, Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, State of Pennsylvania, and is now, and was at all time hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale, and distribution of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That in the course of such commerce, the respondent has entered into contracts with certain persons, partnerships, or corporations to sell or distribute its magazines, by the terms of which contracts, such persons, partnerships, or corporations, have agreed, among other things, not to "act as agent for or supply at wholesale rates, any periodicals other than those published by the

publisher,"—the respondent herein—without the written consent of such publisher; that of such persons, partnerships, or corporations, approximately four houndred forty-seven (447), hereinafter referred to as "dealers," are and previous to entering into such contracts with respondent were regularly engaged in the business of wholesale dealers in newspapers or magazines, or both and as such are as aforesaid engaged in the sale or distribution of magazines, or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provisions as aforesaid, have requested respondent's permission to engage also in the sale or distribution of certain publications competing in the course of said commerce, with those of respondent, which permission as to said competing publications has been uniformly denied by respondent; that in enforcing said contract provision as to said dealers, and in denying them said permission, respondent has prevented and now prevents certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and in numerous cases, the only medium for the distribution of such publications in the various localities of the United States; that such method of competition so employed by respondent in the course of such commerce, as aforesaid, has proved and is unfair.

PARAGRAPH THREE. That in the course of such commerce, the respondent has made sales of its magazines to, or entered into contracts for the sale of the same with certain persons, partnerships, or corporations, by the terms of which sales or contracts for such sales, such persons, partnerships, or corporations have agreed, among other things, not to "act as agent for or supply at wholesale rates, any periodicals, other than those published by the publisher,"—the respondent herein—without the written consent of such publisher; that of such persons, partnerships, or corporations, approximately four hundred forty-seven (447) hereinafter referred to as "dealers," are and, previous to entering into such contracts with respondent, were, regularly engaged in the business of wholesale dealers in newspapers or magazines, and as such are engaged in the sale or distribution of magazines or newspapers, or both, or other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts bound by said contract provision hereinabove referred to, have requested respondent's permission to also engage in the sale or distribution of certain publications competing in the course of said commerce with those of respondent, which permission as to said competing publications has been uniformly denied; that in enforcing said contract provision as to said dealers and in denying them said permission, respondent has prevented and now prevents, certain of its competitors from utilizing established channels for the general dis-

tribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and, in numerous cases, the only medium for the distribution of such publications in the various localities throughout the United States; that the effect of said contract provision has been, and is, to substantially lessen competition with respondent's magazines and tends to create for the respondent a monopoly in the business of publishing magazines of the character of those published by respondent.

Conclusions.

From the foregoing findings, the commission concludes that the method of competition set forth in paragraph 2 of said findings, is, under the circumstances therein set forth, in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that the acts and conduct set forth in paragraph 3 of said findings are, under the circumstances therein set forth, in violation of the provisions of section 3 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

[SEAL.] (Signed) VICTOR MURDOCK,
Acting Chairman.
HUSTON THOMPSON,
WILLIAM B. COLVER,
Commissioners.

Dated this 21st day of July, A. D., 1919.

Order to cease and desist.

EXHIBIT E.

UNITED STATES OF AMERICA,
Before Federal Trade Commission, ss:

At a regular session of the Federal Trade Commission held at its office in the city of Washington, D. C., on the 21st day of July, A. D. 1919.

Present: John Franklin Fort (chairman), Victor Murdock, Huston Thompson, William B. Colver, Commissioners.

FEDERAL TRADE COMMISSION
vs.
CURTIS PUBLISHING COMPANY. } Docket No. 15

Order to cease and desist.

The Federal Trade Commission having issued and served its complaint herein, and the said respondent, Curtis Publishing Company

having filed its answer admitting certain allegations of the complaint and denying certain others thereof, and the commission having offered testimony in support of its charges in said complaint, and the respondent having offered testimony in its behalf, and the attorneys for the commission and the respondent having submitted their briefs as to the law and facts in said proceeding, and the commission having made and filed its report containing its findings as to the facts and conclusion that the respondent has violated section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and section 3 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," which said report is hereby referred to and made a part hereof:

Now, therefore, it is ordered, That the respondent, Curtis Publishing Company, and its officers, directors, agents, and employees, cease and desist, while engaged in competition in commerce among the several States and Territories of the United States and the District of Columbia, from entering into any contracts, agreements, or understandings with persons, partnerships, or corporations already engaged in the sale or distribution of the magazines or newspapers, or both, of other publishers, which provide that such persons, partnerships, or corporations shall not act as agents for, or sell, or supply to others at wholesale rates, any periodicals other than those of respondent without the written consent of respondent; and from entering into any contracts, agreements, or understandings with persons, partnerships, or corporations already engaged in the sale or distribution of the magazines or newspapers, or both, of other publishers, which provide that such persons, partnerships, or corporations shall not sell or distribute, or shall not continue to sell or distribute the magazines or newspapers, or both of other publishers; and from enforcing any provision which may be contained in any of respondent's present outstanding contracts with persons, partnerships, or corporations now engaged in the sale or distribution of magazines or newspapers, or both, of other publishers which provide that such persons, partnerships, or corporations shall not sell or distribute the magazines or newspapers, or both, of other publishers, or shall not sell or distribute the magazines or newspapers, or both, of other publishers without the written consent of respondent.

By the commission:

[SEAL.]

WARREN B. CHOATE,
Acting Secretary.

CLAUDE R. PORTER,
Chief Counsel.

In the United States Circuit Court of Appeals for the Third Circuit.

October Term, 1919.

CURTIS PUBLISHING COMPANY, PETITIONER,
vs.
FEDERAL TRADE COMMISSION, RESPONDENT.
No. 2511.

Order.

In pursuance of the petition filed in this court on the twenty-sixth day of September, 1919, for a review of the order of the Federal Trade Commission to cease and desist, issued on July twenty-first, 1919, against the Curtis Publishing Company,

It is hereby ordered that the said The Federal Trade Commission shall, within thirty days from the date hereof, certify and file with the clerk of this court a transcript of the entire record in the above proceeding, including all the testimony taken and all documents and exhibits separately filed with said commission and made a part of the record in this proceeding, together with the report, findings as to the facts, conclusions, and order of the said commission pursuant to the act of Congress in such case made and provided.

Philadelphia, October 1, 1919.

JOS. BUFFINGTON,
Circuit Judge.

(Endorsements: 2511, Order allowing review and directing transmission of record. Received and filed Oct. 1, 1919. Saunders Lewis, jr., clerk.)

In the United States Circuit Court of Appeals for the Third Circuit.

March Term, 1920.

CURTIS PUBLISHING CO., PETITIONER,
vs.
FEDERAL TRADE COMMISSION, RESPONDENT.
No. 2511.

And afterwards, to wit, on the 26th, 27th, and 28th days of April, 1920, come the parties aforesaid by their counsel aforesaid, and this case being called for argument sur pleadings and briefs, before the Hon. Joseph Buffington, Hon. Victor B. Wooley, circuit judges, and Hon. Hugh M. Morris, district judge, and the court not being fully advised in the premises, takes further time for the consideration thereof.

And afterwards, to wit, on the 2nd day of March, 1921, come the parties aforesaid by their counsel aforesaid, and the court, now being fully advised in the premises, renders the following decision:

In the United States Circuit Court of Appeals for the Third Circuit.

March Term, 1920.

CURTIS PUBLISHING COMPANY, PETITIONER,
vs.
FEDERAL TRADE COMMISSION, RESPONDENT.
No. 2511.

Before Buffington and Wooley, circuit judges, and Morris, district judge.

BUFFINGTON, J.

On July 5th, 1917, the Federal Trade Commission issued a complaint against the Curtis Publishing Company, alleging that it had used unfair methods of competition in interstate commerce in violation of section 5 of the act of Congress of September 26, 1914, and had also violated the provisions of section 3 of the act of Congress of October 15, 1914, commonly known as the Clayton Act. This was followed by an amended complaint on the 8th day of April, 1918. The Curtis Company answered these complaints, and thereafter a large amount of testimony was taken, to which we will hereafter refer. On the 21st day of July, 1919, the Trade Commission made its findings of fact, and from these findings drew the conclusion "that the method of competition set forth in paragraph 2 of said findings is, under the circumstances therein set forth, in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled 'An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' and that the acts and conduct set forth in paragraph 3 of said findings are, under the circumstances therein set forth, in violation of the provisions of section 3 of an act of Congress approved October 15, 1914, entitled 'An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.'" The same day the commission issued a restraining order on the Curtis Company to desist from continuing such alleged unfair method of competition. Thereupon the Curtis Publishing Company brought this proceeding to obtain a review of such order.

The act of September 25, 1914, constituting the Trade Commission, provides as follows:

"SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful. * * * Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect. * * * The testimony in any such proceeding shall be reduced to writing and filed in the office of

the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this act, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. * * * If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the Circuit Court of Appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. * * * Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said Circuit Court of Appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive."

In pursuance of the last provision of the statute quoted above, the Curtis Company by this proceeding seeks a review of the commission's order, which order, together with the commission's findings of fact and the conclusion drawn therefrom, are printed at length in the margin.[1] An examination of these findings of fact shows that no

[1] PARAGRAPH ONE. That the respondent, Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, State of Pennsylvania, and is now, and was at all times hereinafter mentioned, and for many months prior thereto, engaged in the publiction, sale, and distribution of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

PARAGRAPH TWO. That in the course of such commerce, the respondent has entered into contracts with certain persons, partnerships or corporations to sell

findings whatever have been made in reference to the greater part of the vast volume of testimony in this case, and it therefore becomes the duty of this court, with a view to giving due effect to such testimony, to here recite what the proofs disclose as to the operations of the defendant company in those matters in which there has been no finding of fact by the commission. And indeed, in our opinion, such an examination and the ascertainment of the facts of such prior business dealings of the respondent company, is absolutely essential to a full understanding and a just determination of this case. Accordingly, to the facts deducible from such testimony, this court now addresses itself.

The Curtis Publishing Company is a corporation of the State of Pennsylvania. It was organized in 1883 with a capital of two and a half million of dollars, which has since been increased to twenty-five millions. Its business was the publication of periodicals, and from its incorporation until about 1897, that business was the publication of the Ladies Home Journal. In 1897 it acquired the Saturday Evening Post, and in 1911 the Country Gentleman. The journal was a monthly publication; the other two, weekly. From 1883 to 1909, with the exception of a brief period of an experiment of circulation in 1906 through wholesalers, the Curtis Company distributed for these twenty-six years the Home Journal by mail and through the American News Company, the business of which latter company was the circulation and sale of newspapers and magazines through the United

---

or distribute its magazines, by the terms of which contracts such persons, partnerships, or corporations have agreed, among other things, not to "act as agent for or supply at wholesale rates any periodicals other than those published by the publisher"—the respondent herein—without the written consent of such publisher; that of such persons, partnerships, or corporations, approximately four hundred forty-seven (447), hereinafter referred to as "dealers," are and previous to entering into such contracts with respondent were regularly engaged in the business of wholesale dealers in newspapers or magazines, or both, and as such are as aforesaid engaged in the sale or distribution of magazines, or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision as aforesaid, have requested respondent's permission to engage also in the sale or distribution of certain publications competing in the course of said commerce, with those of respondent, which permission as to said competing publications has been uniformly denied by respondent; that in enforcing said contract provision as to said dealers, and in denying them said permission, respondent has prevented and now prevents certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and in numerous cases, the only medium for the distribution of such publications in the various localities of the United States; that such method of competition so employed by respondent in the course of such commerce, as aforesaid, has proved and is unfair.

PARAGRAPH THREE. That in the course of such commerce, the respondent has made sales of its magazines to, or entered into contracts for the sale of the same with certain persons, partnerships, or corporations, by the terms of which sales or contracts for such sales, such persons, partnerships, or corporations have agreed, among other things, not to "act as agent for or supply at wholesale rates, any periodicals other than those published by the publisher"—the respondent herein—without the written consent of such publisher; that of such

States. The arrangement between the Curtis Company and the News Company was one of a distributive agent and not of sale, the undistributed copies being returned to the Curtis Company by the News Company. The Curtis Company distributed the Saturday Evening Post by the same method for some two years after its acquisition, but in the latter part of 1899 it began to sell and circulate that publication by the addition of schoolboy agents to its selling staff. And in that connection we here note that while the attempted use by some of the competitors of the Curtis Company of these schoolboys as the agency of magazine sale and personal delivery to customers is the end which these competitors have in view, yet, as the means of such control of the schoolboys, the vital, strategic factor underlying this controversy is the use and control of the distributing agents later referred to, who furnished the magazines to the boys, and who are the operative and vital connecting and controlling link between the schoolboys and the Curtis Company.

These combined agencies of the American News Company and the schoolboys organized by the Curtis Company were both employed by the Curtis Company for some ten years thereafter. During this time, the new schoolboy organization had grown to such extensive size and had been so successful, that in 1910 the Curtis Company wholly discontinued its prior status of distributive agency with the American News Company, and thereafter its relation with the News Company

---

persons, partnerships, or corporations, approximately four hundred forty-seven (447), hereinafter referred to as "dealers," are and, previous to entering into such contracts with respondent, were, regularly engaged in the business of wholesale dealers in newspapers or magazines, and as such are engaged in the sale or distribution of magazines or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision hereinabove referred to, have requested respondent's permission to also engage in the sale or distribution of certain publications competing in the course of said commerce with those of respondent, which permission as to said competing publications has been uniformly denied; that in enforcing said contract provision as to said dealers and in denying them said permission, respondent has prevented and now prevents, certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and, in numerous cases, the only medium for the distribution of such publications in the various localities throughout the United States; that the effect of said contract provision has been, and is, to substantially lessen competition with respondent's magazines and tends to create for the respondent a monopoly in the business of publishing magazines of the character of those published by respondent.

CONCLUSIONS. From the foregoing findings the commission concludes that the method of competition set forth in paragraph 2 of said findings is, under the circumstances therein set forth, in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that the acts and conduct set forth in paragraph 3 of said findings are, under the circumstances therein set forth, in violation of the provisions of section 3 of an act of Congress approved October 15, 1914, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes."

was that of sale only instead of agency, the News Company not having the right to return unsold periodicals to the Curtis Company. At that time the Curtis Company began also contracting with and sending its publications to independent wholesalers throughout the country, who were not related to, or connected with, the American News Company.

In addition to its contracts with the American News Company and the wholesale dealers in newspapers and magazines in the various cities and towns of the United States, the Curtis Company has also made contracts with persons and concerns who had not previously been engaged in the sale or distribution of periodicals for distribution through boys. The number of wholesale distributors of all kinds under contract with the Curtis Company, was, by the testimony, shown to be 1,535.

The schoolboy selling organization of the Curtis Publishing Company was started by that company in 1899. At that time, as we have said, practically all magazines and periodicals were distributed through the American News Company. The Curtis Company, when it acquired the Saturday Evening Post, which was a weekly publication, conceived the idea of increasing its circulation through schoolboys. The success of the plan in selling the Post was such that it was extended to the Home Journal and the Country Gentleman. At first, these boy salesmen got their copies, not through local distributing agents, but direct from the Curtis Company in Philadelphia. But as their number grew, it was found difficult to deal directly with them from the home office, and the Curtis Company therefore appointed district distributing agents in various localities, whose duty it was to distribute the periodicals to the boys and who were likewise charged with the duty of recruiting and supervising the boys themselves. These distributing agents, largely drawn from the ranks of the schoolboy salesmen, are, as we have said, the permanent keystones and pivotal and controlling factor in the whole plan, for the schoolboy salesmen being, in the nature of things, a temporary and changing body, they must be constantly recruited, and this recruiting the distributing agents do. The distributing organization as a whole has been developed and is being carried on at large expense. At the present time, it consists approximately of 1,500 district agents, having supervision of some 35,000 boy salesmen, and the organization is kept up at an expense of about a million and a half dollars a year, and it is the principal agency employed by the Curtis Company in distributing its periodicals, and without control and undivided loyalty of which its business would materially suffer.

The proofs show that the circulation of the Post increased very rapidly with the use of these schoolboy salesmen, but that this was only brought about by the overcoming of many difficulties and the expenditure of large sums of money and the education, so to speak, of the boys and their parents, and eventually by the use of local distributing agents, who, on the ground, did the work the Curtis Com-

pany originally did from the home office. The development of the system is set forth in the testimony of M. E. Douglas, as follows:

"Q. Did you encounter any difficulties in circulating through boys the way you did?

"A. Yes.

"Q. What were some of them?

"A. We found a prejudice in the minds of the parents and others against the idea of having boys sell magazines in this way. They looked upon the work of selling magazines as being the same as the work done by newspaper boys selling newspapers on the streets. There was a prejudice against it. They considered the newsboy's work as blind-alley work. We had to make our methods different and our plans different in order to win the cooperation of the parents and teachers and others, and that required long and arduous work and the expenditure of a good deal of money. We had to inject into our plan an educational content in order to win the convinced participation of parents in our plan with respect to boys.

"Q. What other difficulties did you have?

"A. We found the boys fickle and we had to devise various ways and means of retaining their interest and their efforts. Our effort was almost entirely to get steady customers whom the boys might serve regularly from week to week, and we, of course, had to teach the boys how to do this and tell them how.

"Q. Did you secure the cooperation of the parents and the teachers of the boys you had selling the Saturday Evening Post?

"A. We did.

"Q. Was the Post in the beginning known throughout the country?

"A. It was not known west of the Alleghenies.

"Q. What was the character of the boys who were selling the Saturday Evening Post at the time you mentioned?

"A. Almost all home boys and schoolboys who sold nothing but our magazines.

"Q. Explain the plan you had of selling copies of the Saturday Evening Post through boys.

"A. As I stated, the boys sent in their remittances and orders to Philadelphia, and we mailed the copies back to the boys. Then, in order to carry out, or in order to accomplish our plans, we had to make it possible for the boys to learn how to sell. We began printing leaflets and pamphlets and house organs, in which we placed suggestions for the guidance of the boys, telling them what to say about the publications—telling them what to say about the articles or features of the publications. We, in short, had almost to put into the mouths of boys what they should say about the articles in the magazines, and we had to help them to identify the class of readers to whom to go. We had to associate the particular article with the prospective purchaser in the mind of the boy in order that he might judge how to intelligently approach the reader who would be most apt to buy the particular article or issue. That required a good deal of work in addition to the other necessity of

getting the convinced participation of the parents of the boys in this proposed plan.

"Q. How did you obtain the participation of the parents and teachers?

"A. We built up a circulation of twenty-five to forty thousand, and then we found it difficult to make further increases. The increases that had been made up to that point did not follow, and we began to analyze the reasons for that, and we found that it was——

"Q. How did you obtain the participation of the parents and teachers that you spoke about?

"A. By emphasizing the business-training value of this work and pointing out what was involved in it.

"Q. How was that done?

"A. By concrete illustrations as to what was involved in that.

"Q. Was that done by traveling men or correspondence?

"A. We began with a few traveling men in about 1901, and we gradually increased the force so that we had traveling men as well as correspondents helping to this end.

"Q. What educational feature was incorporated in your method?

"A. Eventually we worked out the plan of the League of Curtis Salesmen.

"Q. The what?

"A. The League of Curtis Salesmen.

"Q. What was that?

"A. A league composed of the organization of our better boys—the boy reaching the highest rank in the league is assured of a good salaried position obtained by us for him. There are several ranks in the league. This was the culmination of our effort at imparting the educational content to the parents.

"Q. That was the culmination of your effort that began in 1899 or 1900, when you first started to break down this prejudice of the parents and teachers?

"A. Yes, sir.

"Q. Which you testified about?

"Yes, sir.

"Q. Was there anything with respect to the vocational training of boys other than you have testified with respect to the instruction that you gave them?

"A. Oh, yes; we have used moving-picture films, and we have had conventions——

"Q. I mean at that time.

"A. In the early time?

"Q. Yes.

"A. We emphasized points like this: 'Boys in connection with this work have opportunities to learn something about the keeping of accounts, because they have accounts to keep with their customers and with the district agent, and we emphasized the desirability of learning salesmanship by reason of the fact that the vocation of salesmanship is one of those vocations having a large number of

people employed in it—larger, in fact, than all but three or four other vocations, perhaps. For instance, bookkeeping—that is taught in almost every public school, yet there are several salesmen for each bookkeeper, and you hardly find salesmanship taught in any high school—at least not one in a thousand.

"Q. At that time, in 1899 and 1900, the boys were in direct contact—that is, the boys who were selling the Saturday Evening Post—were in direct contact with the main office of the Curtis Publishing Company, in Philadelphia?

"A. Yes, sir.

"Q. Did you have any local agents at that time—in the beginning?

"A. Not in the beginning.

"Q. What gave rise to the appointment of local agents—just briefly explain that, Mr. Douglas.

"A. We found need of local supervision.

"Q. Local supervision of the boys?

"A. Local supervision of the boys; yes, sir; in order to adapt it locally—to meet local conditions—the plans I have described. That is when we began appointing district agents.

"Q. When did you appoint the first district agent of the Curtis Publishing Company?

"A. The first district agent was appointed in about 1901.

"Q. Who was it?

"A. Beverly Roy Dudley, of Richmond, Virginia.

"Q. Was he a boy salesman?

"A. He had been a boy salesman.

"Q. He had been a boy salesman?

"A. Yes, sir.

"Q. He was the first district agent appointed?

"A. Yes, sir; the first district agent appointed.

"Q. Who was the next agent appointed?

"A. I think the next was Wallace Greenbaum, of Denver, Colorado.

"Q. Had he been a boy—a Curtis boy?

"A. Yes, sir; he had been a Curtis boy.

"Q. Did you keep on appointing district agents after that, from time to time?

"A. We appointed a few and watched them to see what developed, and as excellent progress followed, then we began appointing other district agents just as fast as we could everywhere.

"Q. Have you any idea about how many you had after the first six months—just approximately?

"A. We probably worked for about three months with a dozen, to see what the developments were. Then, within six months after that, I should say, we had a hundred or two.

"Q. What was the main reason for your appointing these district agents, and what were they supposed to do?

"A. We wanted a representative locally—an agent locally—who would coach these boys and train them as salesmen. We wanted to

shift, with respect to this effect, the center of gravity from Philadelphia to these cities, and have an agent there who would coach these boys and do the same things we were doing at Philadelphia.

"Q. Did that involve meeting with the parents and teachers?

"A. Yes, sir; that involved meetings with the parents and teachers.

"Q. What did the agent have to do at that time with respect to making any reports?

"A. Very soon—in due course, after we had appointed a considerable number of them, so it became a practical thing, then we began to ask them to make reports of sales by boys individually. Of course, when we appointed one of those agents we turned over to the agent all the boys in the town who had been previously buying from us and asked them to buy from the district agent, thereby giving the district agent the local organization to start with, giving them the boys we had been previously supplying, and as soon as it became a practical thing we had these agents report to us the sales by the boys individually.

"Q. So, after 1901, which was the beginning of the employment of district agents, you testified, I think, that you put in more from time to time at various places?

"A. Just as fast as we could.

"Q. Now, at that time, how were the district agents located and found—selected?

"A. They were placed largely by correspondence, for the reason that in the early days we did not have an adequate force of men. We had applications from a number of the boys, asking for appointment. In our house organs, we made mention of the arrangements that had been made with district agents.

"Mr. DALY. What question is he answering?

"Mr. WELCH. He is answering how the district agents were selected and found.

"The WITNESS. In our house organs we made mention of the arrangements that had been made with Beverly Roy Dudley and with Wallace Greenbaum, and with others, and this resulted in applications coming to us from boys in other cities, who wanted similar arrangements made.

"Q. Did you have any traveling men appointed then?

"A. We had a few; yes. Then as we found this plan proving successful, we advertised. We advertised for persons to act as agents for us.

"Q. And this was covering the period from 1901 up to about when? That is, it was a continuing period after 1901?

"A. Continuing period; yes.

"Q. Now, what was the character of the men, other than boys, that were appointed district agents?

"A. Chiefly retail dealers.

"Q. Retail dealers in what?

"A. Newsdealers, stationers, bookstores, druggists, tobacconists, candy stores, occasionally—every kind of a retail store.

"Q. Did you endeavor at first to obtain as district agents one of the boys who had been selling the Post?

"A. The preference was always given, under our original instructions, to one of the boys who had previously been selling, if there were one qualified for leadership of the others.

"Q. And following that, your traveling men or you would appoint a retail dealer?

"A. Some one qualified for leadership, chiefly retailers.

"Q. And you kept on appointing—did you after that keep on appointing boys as district agents, wherever available?

"A. Yes; we still do so.

"Q. And still do it?

"A. Yes.

"Q. That is, boys who previously sold the Post and the Curtis publications?

"A. Yes; there are thousands of boys, right now, looking forward to the time when they may get to be district agents.

"Q. What did you do with respect to extending district agents or not?

"A. In about 1909 we began to use traveling men on a large scale, to appoint district agents in towns where we then had not appointed them."

From this it will be seen that the development of these district agents was a natural outgrowth of the commercial and fair development of the business; that the first district agent was appointed in 1901; that the first appointees were old boy salesmen; that on the district agents was placed the responsibility of personally dealing with the boys locally instead of from the home office at Philadelphia; that beginning with a few such local distributing agents the success of the movement developed rapidly. And, indeed, the very business of these distributing agents which these two competing companies seek to share, namely the boy force of these agents, was turned over to the agents originally by the Curtis Company itself.

That as the plan of working through distributing district agents proved successful (p. 1331) the Curtis Company began advertising for persons to act as distributing agents (p. 1331) "news dealers, stationers, book stores, druggi'ts, tobacconists, candy stores, originally—every kind of a retail store." However, the preference was always given to one of the boys who had developed in the boy organization; and that the extent of this preference for the boys was shown by the fact that out of 1,700 or 1,800 distributing agents, the Curtis Company had had, in 1910, about 95 per cent of boys and retail dealers. Indeed, the fact that from the boys there were being developed trained distributing agents and that these distributing agents were recruiting new boys, shows how widespread and co-related the two factors were.

"Q. About how many district agents did the Curtis Publishing Company have in 1910, approximately, if you know now?

"A. About 1,700 or 1,800.

"Q. Did they have that many as early as 1910?

"A. I think so.

"Q. You testified that most of these district agents in 1910 were boys and retail dealers. Can you give any estimate of what percentage were boys and retail dealers?

"A. About 85 per cent."

This general plan seems to have been original with the Curtis Company, the proof being that "at that time there was no other publisher of magazines which circulated its magazines through local district agents supplied directly by the publisher and by the boys" (p. 1341). It will thus be seen that in its novelty and success it was a new factor, within its sphere, of developing a new, and not of operating an old, field of commerce.

Up to 1910 (p. 1341) the distributing district agents sold their publications direct to the boys only and retail news dealers were supplied by the American News Company. Shortly before that time, owing to business friction between the Curtis Company and the American News Company (see p. 1344, 3217, and 3218), the district distributing agents were left free to deliver copies of the Evening Post to retailers, and this arrangement (p. 1345) was later extended to the Ladies' Home Journal. Up to the year 1910 the Curtis Company's district agents wholesaled no other magazines than the Curtis Company's Post and Ladies' Home Journal, a business practice to which no one is shown to have objected as unfair business competition.

The expense of maintaining these sales through the distributing district agents and the boys at large amounted in 1908 to over a quarter of a million dollars and in 1909 to over $376,000.

In 1912 the Curtis Company acquired, as we have said, the Country Gentleman and distributed it through its distributing district agents and boys and through the American News Company in the same way, and from that time on has continued to expend large sums for prizes, etc., among its distributing agents and the boys, approximately the following sums: 1913, $89,000 (p. 1363); 1914, $88,000 (p. 1367); 1915, $126,000 (p. 1366); 1916, $184,000 (p. 1365); 1917, $136,000 (p. 1366).

The personal character of the work of the local distributing agents and the personal relation of these boys to the Curtis Company and its local distributing agents was shown by the proofs. As a part of the boys' compensation the company paid the dues in the Y. M. C. A. of a large number of boys (p. 1385), these membership fees now amounting to $2,500 a year (p. 1385).

A league of what is called Curtis salesmen was formed among the boys, membership in which was dependent on their standing in their local school work and on their efficiency as salesmen, both of which features it was the work of the local distributing agent to oversee. The boys reaching the highest rank in this league were assured good salaried positions on leaving school, and their high character and

the success in training them is proved on the record by the fact that at the time the proofs were taken (p. 1385) there were 2,000 applications on file from some of the best business concerns of the country asking for these boys. The personal character of this work of the local distributing agents and the cooperation of the company's traveling agents in the organization of this league of the boys, and the time, patience, and expenses expended in its formation, are fully set forth on the record (p. 3225), and show, beyond all question, that this widespread, novel, and effective selling organization of distributing agents and boy salesmen is a part of the complainant's business, fairly and laboriously built up by it, and leaves no doubt that its morale, efficiency, and good will was a business asset and, in the distribution of magazines, of great value, and its continuance and its success was, in the main, bottomed on the undivided loyalty of the local distributing agents and on their continuing to remain distributing agents of the Curtis Company alone.

The proofs show that the compensation of these boys and the distributing district agents was fair, taking, as an example, of the five cents paid by a customer to the boy for a copy of the Saturday Evening Post, two cents went to the boy, one-half of one cent to the distributing agent, and two and a half cents went to the Curtis Company for publishing and delivering the magazine to the district agent.

Indeed, the personal character of the relationship and the distributing agents as the prime element in the whole plan is stated by Charles W. Eliot, late president of Harvard University, who says: "The method of the Curtis Publishing Company in enlisting a large number of boys who are still at school in selling its publications, and teaching them how to sell the journals to the advantage of the company and to their own profit, gives a useful example of cooperation between schools and industrial companies in the training of boys. It is a first-rate example of vocational training, given by a commercial company during the period of school life. The Curtis Publishing Company's method has proved successful in several important respects: First, it has provided the company with a large body of effective young distributors of its products; secondly, it has kept thousands of boys in school longer than they would otherwise have stayed there; thirdly, it has taught them thrift and accurate accounting—an invaluable lesson; fourthly, it has given many thousands of boys a knowledge of the art of selling journals which easily becomes available in many other businesses; fifthly, it places many boys in good situations on well-grounded recommendations, when, being fit for larger service, they leave the employ of the Curtis Publishing Company. The Curtis method has thus been of great service not only to more than 50,000 boys but also to employers in a large variety of industries. It should be clearly understood that boys who avail themselves energetically of the offers of the Curtis Publishing Company can still have half of their afternoons for play, and can earn, by diligence out of school hours, not only their pocket money,

but a considerable savings-bank deposit in the course of four or five years. The winning of this deposit is likely to affect beneficially the whole future career."

The proofs show (p. 1483) that 95 per cent of these boys sell only the publications of the Curtis Company and that in view of their school duties and in deference to the wishes of their parents that the sales for the Curtis Company is the limit of their selling power, and if they sell other magazines they must cut down the Curtis sales (p. —.).

The proofs show (p. 1396) that the Curtis Company expended in the maintenance of district agents and boys in the four years 1914 to 1917, both inclusive, over five and a half million dollars, and they abundantly satisfy us that this method of distribution is an entity made up of the joint activity and personal cooperation of district distributing agents and boy distributors and their relationship to the Curtis Company, each one of the three being dependent upon the other two for the proper cooperating and interrelated distribution of the respondent's publications and promptly furnishing the same to the reading public, and that this plan originated with, and was built up by, the Curtis Company through years of patient effort and at great expense, and that it forms the basic, practical method of distributing and marketing the Curtis Company's publications and is a business asset of great value, and that the vital and basic element in this business is the undivided loyalty and personal interest and influence of the distributing agents.

After the success of this plan had been demonstrated by the work and money of the Curtis Company, it is to be noted as an evidence of business morality among the magazine publishers that but two of the four hundred magazine publishers made any effort to take away from the Curtis Company the undivided services of its distributing agents. And it will be further noted this effort was involved in and became the subject of judicial consideration in a suit, hereinafter referred to, between the Pictorial Review Company vs. Curtis Publishing Company, 255 Fed. Rep., 209. There the court in its opinion held as to the relative conduct of those two competitors, "The defendant in insisting upon maintaining the integrity of its system is not, in my opinion, guilty of unfair trade. On the contrary, the complainant, in attempting to avail itself of this system, is engaging in unfair trade. That it can not build up a system of its own, if it desires to do so and will go to the trouble and expense, I do not believe. It is attempting here to secure a preliminary injunction to prevent the defendant from contracting with the latter's district agents not to market the Pictorial Review through boys and dealers. To grant such an injunction would break up what I think is a perfectly legitimate system for the promotion of sales of the defendant's magazines, and would enable the complainant, without expense, to employ the organization built up and fostered by the defendant."

Turning, then, to the proofs in regard to the acts of the Curtis Company and these two competitors which form the basis of this proceeding, we note that in 1910 the Success Company, which published the Post Magazine, now the National Post Magazine, endeavored to make use of the Curtis organization. But from 1912 to 1917 the services of the boys in the organization described have been utilized solely by the Curtis Company. During that time a number of other magazines and periodicals have been wholesaled to retail dealers by some 366 of respondent's district distributing agents, out of a total of 1,375. (Record, pp. 3221–3223.) This has been done with the understanding that no use should be made of the respondent's boy organization for the sale of the periodicals of such publishers. The proofs further show that about 1917 the two magazine companies which published the four magazines referred to undertook to avail themselves of this boy organization of the Curtis Company. One of these companies was the Pictorial Review Company, which published the Pictorial Review; the other the Crowell Publishing Company, which publishes four magazines, namely, Women's Home Companion, American Magazine, Farm and Fireside, and Every Week. These companies have built up a great business and great circulation of their magazines through the American News Company (p. 176) and by other means open to them, as to which reference is made in the testimony of Messrs. Beck and MacKinnon.

As we have seen, the Pictorial Company depended entirely in the matter of single copy sales on the American News Company and its facilities. Seeing this, they sought to secure the local distributing agents who are under contract with the Curtis Publishing Company "in order to secure a wider and more efficient and better service and more circulation" (p. 108). The proofs show the commercial significance of this effort (p. 111) was that "if we could reach all of the wholesalers in the country—that is to say, if we could do business with all of them—I think the doubling of our single copy sales" (that is, a sale by boys) "would not be unreasonable to expect on Every Week."

In addition to the effort to reach the distributing agents of the Curtis Company, the proofs show that efforts were made to reach the boys whom the distributing agents had. At first no objection were made by the Curtis Company in a number of cases to its district distributing agents handling these periodicals (p. 1471). "With Every Week, as with Pictorial, we granted permission in a number of early cases, until it developed that the methods in use were contemplated to be generally objectionable to us." These later developed methods, after February, 1917, are shown by the proofs (p. 1471) that "in the case of Every Week we found that they were beginning to sell through boys" (p. 1472).

The letters of the Pictorial Company, which began about January 20, 1917, and were sent to the distributing agents of the Curtis Company, among other things stated: "We are ready to supply you

directly with such copies of Pictorial Review as you can sell through boys. * * * Your boys should be able to do a corking business." In the specific instructions sent out to give these Curtis distributing agents they were directed by the Pictorial Review to "get your boys busy getting orders for regular monthly delivery." That the purpose was to undermine the sale of the Home Journal by the Curtis Company's boys is clearly indicated in circular dated November 28, 1917 (p. 2565), in which they said: "Maybe you have some newspaper or route boys whom you could get started with a monthly delivery by offering them this bonus in addition to their regular four cents." Thus the testimony of Smith, of Washington City (p. 2205), is that an agent of the Pictorial Company came to his office and "wanted me to take some copies from the Washington News Company and get my boys who were selling the Saturday Evening Post and the Ladies' Home Journal to try them out."

The proofs further show that it was to be done in an underhand manner, the witness stating: "Before I had a chance to refuse it it was offered to me with the suggestion that I could get it in my sister-in-law's or my wife's or in the name of a couple of men who worked around the office." The proofs further show that Smith was a sales boy who had grown up with the Curtis Company sales agency, having started with that company when he was eight years old.

The proofs show that Thomas (p. 2194) had about 350 boys selling for him, and that he had received about 200 from the Curtis people when the work was turned over to him. That he had meetings with the boys at the Y. M. C. A. and the boys' homes. Thomas testified (p. 2193) that Korb asked him to handle the Pictorial. "He said he would accept; if the boys wanted any copies, to let them have them." Thomas had been brought from Norfolk and Newport News, where he had been working for the Curtis Company, to Baltimore, and had taken charge of their business there. It is also to be noted that while Korb was endeavoring to get the use of these 350 boys through Thomas that the latter was not the only wholesaler in Baltimore. That Conn, Wilson, and Grape were wholesalers who handled the publications of other magazine publishers, and who, it is fair to conclude, were all competitors of the Curtis Company, could get their service.

The Curtis Company's district agent, Kimbrough, at Richmond, was also approached. He had been connected with the Curtis Company for seven years; had grown up as one of their boy salesmen; and worked into the position of district agent, and handled no other magazines. There were other wholesalers in Richmond, the proofs show (p. 220), namely, the Richmond News Company and Levy & Company, but Kimbrough was asked to handle the Pictorial. "They said they wanted to get away from the American News Company and would turn their store business over to me if I would permit the sales with the boys, and I said I would refer the matter to the Curtis Publishing Company."

"Q. Those are the only boys you have?

"A. Yes, sir.

"Q. You distribute magazines through these boys?

"A. Yes, sir. Curtis publications, and they handle only Curtis publications, as far as I know."

The suggestion was likewise made to him that he could take an agency for the Pictorial in somebody else's name.

The proofs show these boys form a dependable body; that they had their own permanent customers; and they also show the personal work of Kimbrough. In these respects the testimony of Kimbrough was:

"Q. Did you have any talk with Mr. Korb or did Mr. Korb say anything to you about other Curtis agents handling Pictorial Review?

"A. Yes; he said that there was no objection on the part of the company, because Smith at Washington and Schafer at Pittsburgh were handling the Pictorial Review.

"Q. Was anything said about your brother?

"A. He did suggest that I could do that.

"Q. What do you mean by 'could do that'?

"A. That I could have taken the agency in somebody else's name.

"Q. How many boys have you?

"A. Well, it runs on an average of around one hundred.

"Q. Are they a pretty permanent body?

"A. They keep at a pretty permanent figure of about one hundred. I have one boy who was selling before I was district agent, and he is still selling; and others come and go, and last two or three years or a few weeks, and that is about the way it works out.

"Q. They have permanent customers or routes?

"A. Yes, sir.

"Q. What kind of boys are they—where do you get them?

"A. Most of them from school lists and advertisements inserted in the papers asking for nice, clean boys.

"Q. Most of them are schoolboys?

"A. Yes, sir.

"Q. Have you done any work instructing them or holding meetings with them?

"A. Yes, sir; I have held meetings with them, and often they come and ask me where they can get customers, and I tell them the best I know how.

"Q. And do you do some Y. M. C. A. work?

"A. We have meetings with the Y. M. C. A., and the Y. M. C. A. has cooperated with us and loaned us their swimming pool."

It appears from the testimony that at the time Kimbrough was thus asked to take these agencies and have the boys do the selling Levy was the main wholesaler in Richmond at that time; the seeming object not being to get a dealer to handle their magazines, but to get a Curtis distributing agent who could use the Curtis boys.

The testimony in regard to the situation at Rochester, New York, is also indicative of the real purpose the Pictorial Company had

view. In that city the wholesalers were the Rochester News Company, which was a branch of the American News Company, and the Manson News Agency. They were old, well-established concerns.

Lazarus, the district distributing agent of the Curtis Company, had been such for fourteen years, and sold no magazines except the Curtis publications. He had about 220 boys and they had their own customers. The value of the personal character and the personal work of a distributing agent as used in the Curtis plan is shown in the testimony of Lazarus:

"Q. How long have you had your Curtis contract?

"A. About thirteen or fourteen years.

"Q. You sell your papers, I presume, to dealers and to boys?

"A. To dealers and to boys; yes, sir.

"Q. How many boys have you?

"A. I have about 220 boys that sell the Posts and the Journals and about 30 or 35 corner boys.

"Q. Newsboys?

"A. Newsboys; sell Curtis magazines and papers, etc.

"Q. Of the 220, do any of them do any selling other than Curtis publications?

"A. No, sir.

"Q. They have their own customers?

"A. Own customers; yes.

"Q. What kind of boys are these?

"A. They are all good class of boys. Their fathers are lawyers, doctors, and business people.

"Q. You went out and got these boys?

"A. Yes, sir; I went out and got those boys.

"Q. How did you get them?

"A. I have different ways of getting boys—boys that sell for me. They bring them to me, and then again I am in a business place where there are 340 offices in it, all lawyers, doctors, and all class of peoples, and their sons sell for me. They tell their boys to sell. Once in a while we would be offered different ways of getting them, through newspapers; Curtis has a way of putting it in the papers, you know, getting boys, and it is easy to get boys anyway.

"Q. You never have any trouble?

"A. Never have trouble getting boys at all; no, sir.

"Q. Do you work with the Curtis Company, with their own men there in getting them and keeping them efficient?

"A. Yes, sir; I do.

"Q. And you report on these boys every week, the results of their efforts, do you not?

"A. Every week; yes, sir.

"Q. Are any of these boys members of the Curtis League?

"A. Yes, sir; well, we have about four master salesmen and about three league salesmen.

"Q. Any plain league members?

"A. Yes, sir.

"Q. Have you got any expert salesmen of the middle class?

"A. We have got some, I think. I am not sure. I think I have.

"Q. If they sell enough papers, they get advanced in rank in the league?

"A. Yes, sir; get advanced in rank in the league.

"Q. Do you have any contact with their school-teachers?

"A. Yes, sir; I do.

"Q. What do you do?

"A. I know them all personally. They are glad to send boys to me.

"Q. You work with the school-teachers in getting boys?

"A. Yes, sir; work with the school-teachers in getting boys. Then, we also have about ten boys that I guess the Curtis Publishing Company paid their way through the Y. M. C. A.

"Q. And you work with the Y. M. C. A. there?

"A. Yes, sir.

"Q. Do you know whether the Curtis Company has done that?

"A. Yes, sir."

The same proposition was made to him that was made to the others, stating that they wanted him to handle the publications through the boys (p. 1605). Lazarus testified that he sells 7,000 Posts and 4,500 Ladies' Home Journals; that "he don't handle other business, because Curtis magazines keep him busy," and that he gives it all his time.

In Louisville, Kentucky, the Heverin News Company was the large wholesaler. It was not a branch of the American News Company. It handled a large number of magazines and newspapers, and had been long in the business. Goodman had been the district distributing agent of the Curtis Company for only three years, and his business was exclusively for them. He distributed to 117 boys and to some 215 retail dealers. He testified that he had had the fullest cooperation of the Curtis Company in obtaining boys for his work, and that the Curtis Company was in personal correspondence with every one of them. That these boys were appointed by name by the Curtis Company. That they received prizes or bonuses from that company, and printed matter. He testified that for every new boy he started in the work he received from the Curtis Company one dollar. Goodman testified that a representative of the Crowell Publishing Company had endeavored to get him to sell their Every Week in Louisville.

"One of the roadmen, he was trying to place 'Every Week' in Louisville. He approached me and I explained the situation that I did not care to handle it, and he finally asked me if I had any relative or any brother working for anybody in the newspaper business, and I told him I had a brother working in the Louisville post office, and he suggested I place the agency in his name.

"Q. In your brother's name?

"A. And have our Curtis boys sell it, and by doing so, the agency not being in my name, they would not find it out.

"Q. Now, the Crowell man, of course, wanted to do the same thing for the boys, too, did he not?

"A. He wanted the Curtis boys to sell Every Week.

"Q. And thus reach the same customers that the wholesale dealer could not deliver to?

"A. No; Every Week wanted to draw the benefit of the Curtis work.

"Q. I know he wanted to get the benefit of the Curtis organization, but he was trying to reach these customers, was he not?

"A. He was trying to have the boys sell Every Week to some of their Post customers."

The substantial character of Goodman's magazine business is shown (p. 3169) by his sales of 4,700 Posts a week, 2,300 Journals, and 750 Country Gentlemen.

Proofs in reference to Topeka, Kansas, clearly show that the boy organization was what the Crowell Company was after and not the general wholesaler. In Topeka, one Patterson was a wholesaler and is now handling fifteen magazines; Miss Goodrich handled the Curtis publications alone. The representative of the Crowell Company came to Topeka four different times, endeavoring to induce her to take on his magazines and obtain the use of the Curtis boys. Miss Goodrich distributed the Curtis publications to 33 dealers and had 170 boys. She was the clerk of a church and took up the work with the boys as a vocational, altruistic work. She had parents' meetings once a month; meetings of the boys of the Y. M. C. A.; had them organized in teams, and got in touch with their work in the schools. It was this organization that the Crowell agent wanted to avail himself of. Her testimony shows the personal nature of the work.

"Q. You are intimate with a number of the parents of these boys?

"A. Yes; we have had parents' meetings once a month. The parents are interested in what the plan is doing for the boys; in fact, the whole game with me is a vocational plan, anyhow, and what it is doing for the boy, and I am not only getting these boys but the parents and teachers at the schools. I had one high-school teacher who came to me and asked for viewpoints about salesmanship. Salesmanship is taught in the high school at home, and the lesson that day was 'Selling Saturday Evening Posts.' I had another teacher who came and asked us what we could do for a boy who was late at school. I said that should not be, and I just told her to announce that a boy who reported late at school would not receive his copies until after school. She has spoken to me several times since, and she said that boy has never been late since.

"Q. You are in this because of your great personal interest in this vocational work?

"A. I surely am. The agent said I have such a good organization it was not necessary to go farther, and that he had a good proposition and would like to leave it with me. I said I could not take on the other publications without the consent of the Curtis Publishing Com-

pany, and besides I did not want to use the boy organization, because it was strictly a Curtis organization."

Miss Goodrich sold substantially 2,000 Posts and 2,000 Journals of each issue. The existence of another competent wholesaler in Topeka and the continued persistence of the Crowell Company in endeavoring to get the boy organization which Miss Goodrich, the Curtis distributing agent, had built up as a distinctly Curtis organization, shows that the boy organization was the crux and aim of the Crowell Company's efforts, and the key to getting it was getting the distributing agent.

The testimony of Mrs. Sturdevant (p. 2863) shows very clearly the personal, altruistic, vocational character of the work of the boys in the Curtis organization; the personal work of the district distributing agent in building up the organization and of the Curtis Company in aiding in its upbuilding; and the desire of the competing company to avail itself of this boy agency created by the Curtis Company. Mrs. Sturdevant was a district distributing agent in St. Louis, a city of such magnitude that obviously these competing companies could each get a competent wholesaler to distribute its magazines. In the face of this fact an effort was made to induce Mrs. Sturdevant to give them the services of the boys of this Curtis organization. Her testimony shows that she gained her training under Curtis branch managers, and, as she said, she "learned the Curtis ideals and Curtis methods." She had 187 boys, all of whom were schoolboys. "I make it my business to know the parents of the boys in almost all cases and know them personally through the boy, either over the phone or by visiting at their home." She kept in touch with the boards of schools and got information from them in regard to the boys' school standing, "because the company required that the boy must make good marks in school." She had her boys subdivided into ten club organizations, and at the meetings—"we have instruction on the selling features of the particular publication for that special week. We talk about the cover (of the Curtis publication), analyze it, and discover whether the cover is a good selling feature; whether the cover will sell the copy or whether we must refer to something inside."

The work of the district distributing agent with the boys is supplemented by the traveling representative of the Curtis Company. The proofs show (p. 2868): "Men came there at times for special efforts to get boys. Mr. McLarty, and last year Mr. Neer and Mr. Wehner, different Curtis representatives, came there. Then the company makes very special efforts themselves, by making prize offers to the boys." As showing the personal character of the work in this organization, the same witness testified:

"Q. Now, during these six years' experience, during the time you were district agent, you had experience in watching these boys and instructing them?

"A. Yes.

"Q. Would you say that it had been beneficial to the boys as a whole?

"A. Oh, I know it.

"Q. Well, is there any particular respect that you could speak about in which it has benefited the boys?

"A. There is a boy [indicating picture] that I had from the time that he was a small boy, and this boy now is a bank examiner. * * * In the eighth grade, when he got about fourteen, his mother began to have trouble with him. She is a widowed mother. She appealed to me. So I took it up with Elmer and got him to be a member of the League of Curtis Salesmen, promising him that if he would make certain sales he could do it. I kept him from quitting school and I kept him from losing his grades, because the company required that the boy must make good marks in school. So I appealed to Elmer in that way, and through the principal of his school, Mr. R. L. Barton, and his mother and grandmother and Mr. Barton, we all worked together and showed him what it would mean to him to do this. And then when he got out of school he got a position in the Mechanics' American National Bank. I went to see Mr. Allen about three or four months afterward, and he said, 'If you have any more boys like that send them to me and I will take them.' * * * Very much benefited. I have a small boy who is the son of a widowed mother, and he only sold five copies when he began and was exceedingly stupid. I took it up with his mother. He could not keep account of his money at all. So she called me up and asked me if I thought Robert had better quit. I said, 'By all means, no. Let me have him three months more.' He could not make change; in fact, he very seldom got home with as much money as he started out with for a while, and his mother considered it a bad investment. But his mother and I together have been very busy and we cooperated with him. At the present time, at the last call his mother made on me in regard to it, she said, 'Robert is able now to go out and deliver all his copies'—he is taking ten copies now—'and to come in with the entire amount of cash, and he can make change.' He is only eight years old.

"Q. How old is Robert?

"A. Eight years old. And his mother has persisted in it, even at the loss of money, for the sake of principle and the boy, and she helps him keep his accounts every week. I had another boy, Douglas Crockwell. His father is in the wholesale leather business. And Douglas's father has had me teach his boy. He is not selling now on account of the condition of his health. And his father told me that he makes Douglas account for every cent of his profits. Every week they go over the book that the gentleman showed here.

"Q. Yes?

"A. And they figure his profit, and a certain amount is laid away for spending money and a certain amount is put aside in a permanent fund, and the father and Douglas attempt to account for every cent that is earned in prize money and bonuses and everything else."

We quote these things at length not as showing the altruistic character of the organization, its worth to the boys, or as being a factor in the decision of this case, but simply to show that whatever the boy sales agency of the Curtis Company was, the distributing agents and

their undivided service to the Curtis Company constituted the foundation stone of the whole selling structure.

Mrs. Sturdevant handled no other than the Curtis publications. She was urged to take on Every Week by the Crowell Company, but declined. She felt that the boys were doing better work by concentrating on one publication; that if she took on another publication she would have to teach them the selling points of that publication, and that their parents did not want them to do so; that she placed no restrictions on the boys selling other magazines where their customers wanted them to furnish them; that she finds that about 50 Posts is as much as a boy ought to handle; that she had not encouraged them to sell more.

The personal character and morale of the district agents and the boys are illustrated by the testimony of these witnesses:

"Q. Now, you are interested in your boys making all the money they can, aren't you?

"A. I am more interested in their learning to be men, business men.

"Q. Yes; I will agree in your case that is true; I think you are.

"A. Yes, sir.

"Q. And I think it is a very commendable thing.

"A. I do not emphasize the money as much as the other.

"Q. But I am asking you, would you like to have them make money, too?

"A. Oh, yes; the money is the measure of success, in a way."

Mrs. Sturdevant declined to take on other magazines, saying: "Well, I believe in the boys concentrating on one thing. I believe in concentration. I think it pays me and pays the boys. I believe that to handle one line of goods and handle it well is better than to divide up."

Mrs. Whittelsey, another district agent in St. Louis, had 35 boys on her staff, and handled no other publications than the Curtis. She was also approached with a view to get the use of her organization of Curtis boys:

"In August, 1917, I was asked to—a man came to the house. He told me he was representing Pictorial Review and asked me if I would take it on. I said no, that I was not interested and I hadn't the time. Well, he said it would not take any more time than I was devoting right now to it, that I had the organization and could do it while I was distributing the other papers.

"Q. Did he mention the character of your organization in any way?

"A. Yes. He said they were a fine class of boys, and they could sell the papers while they were selling the other papers."

The testimony shows that the effort to get the distributing district agents' boys of this Curtis organization was carried out even in small communities. McNerney was a miner at Goldfield, Colorado, and there was a wholesale news company and a branch of the American News Company in that district, which wholesaled every mag-

zine that came into it except Curtis', which was the only one McNerney handled. He had a small organization of boys which he had built up and trained with the help of the Curtis Company, through their prizes and instructions. The personal character of the organization, distributing agent, and boys, and its relation to the Curtis Company is shown by his testimony:

"Q. How did you come to sell Curtis magazines?

"A. Well, I was going to school and needed a little spending money, and I knew the district agent in Cripple Creek and he thought he would give me a trial and started me out with twenty Posts.

"Q. Did he give them to you or sell them to you?

"A. He sold them to me.

"Q. Twenty Posts a week?

"A. That was the first week.

"Q. And when you bought those twenty Posts, and started to sell them, did you know you were a Curtis boy?

"A. Yes, sir.

"Q. How did you know that?

"A. Because he told me."

The testimony of Nelson, district agent at Omaha, shows clearly that the object in view was to get hold of the Curtis schoolboy organization. In that city, both the American News Company and McLaughlin, a wholesaler, handled magazines. Nelson had 135 boys and handled nothing but the Curtis publications, which took up his entire time. The proofs show that his boys were schoolboys; that the traveling representatives of the Curtis Company had aided him in instructing them and taking the general supervision of their work; that the boys had received special encouragement from the Curtis Company. "I have one boy that won a trip for him and his mother to Washington for the inauguration of President Wilson, and also at the same time won a pony and cart and harness." That other boys had won smaller amounts and he, himself, had obtained bonuses on account of the work done as distributing agent, the largest being a check for $500.00; and that during the sixteen years of his connection with the Curtis work, he had earned bonuses approximating $2,000. He was urged to take up Every Week (p. 2611). "The substance of their interview with me was that they wanted to get in with the boy organization, which I would not sanction, and that seemed to be about all there was to it."

The thoroughness with which this work of obtaining the use of the Curtis organization of boys was carried on, is evidenced by the testimony of Dewey, a sixteen-year-old schoolboy, who, in addition to his school work, had ten boys selling Posts, the contract being carried in his father's name. The proofs show that the Crowell Company visited him but the witness declined to handle the magazines because (p. 2837) they "were in direct competition with the Curtis magazines, and I did not want to work them together."

The testimony of Alexander McLean is very suggestive. His son started out as a boy of twelve years of age, to sell the Curtis

5
7

publications. He made such a success of it that they gave him a certain district and after he had had that for four or five years, the company proposed to McLean to take the entire north side in connection with his son. The father gives an account of the training the son had from the Curtis Company in his work. He says:

"The most beneficial thing that ever happened to him. It has made a business man of him. The boy is now worth, as a boy twenty-two years old, he is worth probably $10,000. He has made all of that with the Curtis publications, with the investments he has made of that money. And then, he has got 375 boys; he is making business men the same way, practically out of all of them. They save their money. And the boy that don't save his money, he is no good at all. He might just as well turn him out. If the mother and the father don't take care of him, or both of them—it is the best business training for the child that has ever been put before the public, I don't care what it is. * * * He is worth probably $10,000 himself. Now, he has made that off of the Curtis people and the investment he has made of the money he has made off of that. In other words, it has made a business man of him. I will take his word—it is personal, of course, it is my son—it has made a business man of him, that I will put him against any business man in the city of Chicago. That is what it has done for him.

"Q. You attribute that to his training as a Post boy?

"A. Yes, sir; the training that they have given, and what they are doing right now with every Curtis boy they have got. That is what it has done for them, always has done for them, and will do with them.

"Q. What is it they are doing now with respect to the Curtis boys you have now?

"A. They give them free copies to start with. They give them all the encouragement they can in the way of teaching them how to sell goods and approach men, and go out and teach them how to save their money and what to do with their money. It is nothing but business training. It is not a little, quibbling business, either. The boys come to our place, and they buy them and they sell them, just like they would in any other business. It is just as big business for these boys as Marshall Field's business is for him, and done the same way. The Curtis people furnish little books, and I have got one right here [indicating]. It is as simple a set of books as you can usually find—teaches them how to keep books. These little children, ten and fourteen, are taught just as well how to keep their accounts, just as well as Marshall Field's and the First National Bank, or anybody else, and the Curtis people have been doing that for years, as I know positively.

"Q. And these boys are also instructed right along in the proper methods of selling?

"A. They certainly are.

"Q. And in keeping their accounts?

"A. They certainly are.

"Q. And approaching——
"A. Approaching people.
"Q. Prospective customers?
"A. Yes, sir.
"Q. The merits of the article, and so forth?
"A. These little bashful boys will start that business, and it makes them self-assertive; they can put a proposition to a man just as well as a man can, and sometimes better. I will take these boys that have been trained under these Curtis Publishing Company systems of training, and I will put them against men in our stores, and find them better, and we have 350 boys.
"Q. What is the class of the 350 boys?
"A. They are the best class that you can get, mostly schoolboys, naturally. They devote their half day, and one day, and maybe two days to selling the Post. That is the right kind of a boy; if he is drawing fifty he will stick to it until he sells them. If he is the wrong kind of a boy he will bring most of them back. That is the kind of a boy we try to push along and teach him how to do it."

The proofs show that McLean and his son had 350 boys in their organization. While they allowed their boys to sell other publications occasionally, they did not encourage them for the reason that a divided allegiance would destroy the efficiency of the organization. In that regard McLean testifies (p. 2846): "As a business proposition, you can not do two things and do them practically alike. You are going to neglect one or the other. If they sell the Curtis Publishing Company's things and somebody else's, they are going to neglect one or the other."

From these proofs, on the subject matter of which the commission made no findings whatever, it appears by the undisputed testimony that the Curtis Company through a series of years, at large expense and by the creation of personal relations the Curtis Company had built up both a distributing and a selling organization that was efficient, personal in character, and that was—substantially—engaged in distributing and selling exclusively the Curtis Company's publications. That with a view to having this organization cease being the exclusive agents of the Curtis Company and with a view to enlisting the schoolboy salesmen of the Curtis organization, the Pictorial Company and the Crowell Company began and carried on a widespread and systematic campaign, with the object of obtaining the service primarily of the district distributing agents and secondarily of the local boy salesmen of the Curtis Company. The proofs show that in most localities where this attempt to get the distributing district agents of the Curtis Company to handle their publications was made, there were other wholesale distributors already employed in distributing other magazines, and through whom these two companies could have distributed their own. That the proof, by those experienced in getting these periodicals—and there is no proof to the contrary—is that this boy organization is composed almost wholly of schoolboys, that the time at their disposal and their capacity to

sell is limited, and that the ordinary limit of a boy's selling capacity is about fifty magazines. That if the boy undertook to sell other publications, it would result in diminishing his sales of the Curtis publications, as these two firms are in competition with those of the Curtis Company and the handling of the two publications by the same boy would destroy the morale and efficiency of the Curtis boy organization. Such being the proven and undisputed facts, and the commercial gain to these two competing companies if they had succeeded in their plan, being to break down an efficient selling organization which the Curtis Company had, through a long term of years, at great expense and with much effort built up, the crucial question arises, Was the insertion by the Curtis Company in its contract with its distributing agents that without the written consent of the Curtis Company its distributing district agents "will not * * * act as agent for or supply at wholesale rates any periodicals other than those published by the publisher," evidence of unfair competition in business?—or, stated in the common business thought of those in that branch of commerce, Is it evidence of unfair business in magazine publishing to have an exclusive distributing agent? And, indeed, the question of unfair business is even narrower when the test of unfair business is applied to what was actually done in this case, for, while the restrictive wording of the contract was broad in scope and covered all magazines and all publishers, yet in its practical enforcement it was only enforced against these two competitive firms, and was not enforced against some four hundred other publishers and magazines who used the services of such agents in a fair commercial way and did nothing to undermine the loyalty, efficiency, and personal relation of these exclusive agents to their principal.

Having thus considered the general situation which led to the making of these contracts, and without an understanding of environment and the causes which led to the making of a contract, there can be no just construction of a contract, let us now turn to the question of the violation of the Clayton Act.

In this regard, we note that paragraph three of the commission's findings finds "The defendant has made sales of its magazines to, or entered into contracts for, the sale of the same with certain persons, partnership, or corporations, by the terms of which sales, or contracts for such sales, such persons, partnerships, or corporations have agreed, among other things, not to "act as agents for or supply at wholesale rates, any periodicals other than those published by the publisher,"—the respondent herein—without the written consent of "such publisher," was addressed to the Clayton Act. That act provides that it should be unlawful for one engaged in commerce "to lease or make a sale on contract for sale of goods, etc., * * * on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, etc., * * * of a competitor of the lessor or seller," etc.

Seeing, then, that a lease or sale is the thing forbidden by the Clayton Act, that in this case the alleged sale was made by written con-

tract, and that this written contract of sale was the unlawful contract which the commission forbade the Curtis Company to enforce, it is apparent that the first and basic question in the case must be directed to an examination of this written contract and a determining whether it is one for the sale of goods, etc., for, if it is not for a sale, the requirements of the Clayton Act, namely, "a sale or contract of sale," do not appear in this written contract, and therefore no sale being shown in the record, it is the duty of the reviewing court to vacate an order to desist from violating the Clayton Act. So far, therefore, as the Clayton Act is concerned, the questions involved in the present case are: First, Is the Clayton Act limited to sales on contracts for sales of goods; and second, Was the present contract one of sale?

The question of sale being the significant and controlling factor in the third finding, and that being determined, our next question would concern the second finding, which is the same, in substance, as the third finding, with the additional element that such written contract was alleged to be in the alternative, either for sale or distribution; and the next question, therefore, would be, Does the making and enforcement of the foregoing contract, whether it be a contract of sale or distribution, constitute unfair competiton in business?

Turning to the first question, let us determine whether the quoted clause of the Clayton Act is limited to sales or contracts of sales. The only answer to this is the act itself. Its words are: "To lease or make a sale or contract for sale." It makes unlawful, conditions, agreements, or understandings "that the lessees or purchasers thereof shall not use or deal in the goods * * * of a competitor or competitors of the lessor or seller." The words "lease," "sale," "contract for sale," "lessee," and "purchaser," being the words used and no other relation than lease and sale being mentioned, there is no expressed purpose in the clause quoted to make it cover any other subject than leases, sales, or contracts for sales and to embrace no other persons than lessees and purchasers. The words are so clear they require no construction, and to needlessly construe in order to broaden the scope of the statute, whether done by the Trade Commission in administering, or by this court in supervising, the administration of the statute, would be for either or both such agencies to write into the statute what Congress has not expressly written. Not only has no ground been shown for contending that by necessary implication the statute covered other subjects than leases, sales, contracts for sales, or other persons than lessees and purchasers, but the Supreme Court had in 243 U. S., 518, quoted below, indicated its view that the clause in question was passed to meet a clearly defined controversy which concerned leases and sales. The case of Henry vs. Dick, 224 U. S., 1, involved the sale of a patented machine, and the decision upheld a sales condition that other than supplies made by the seller should not be used in its operation by the buyer. Such being the adjudged law of the land, the Supreme Court, in Motion Picture Case vs. Universal Film, 243 U. S., 518, not only overruled that case but changed the decided law, saying: "It is obvious that

the conclusions arrived at in this opinion are such that the decision in Henry vs. Dick Co., 224 U. S., 1, must be regarded as overruled"; but in doing so, that court suggested, as we have said, its view that Congress, in passing the quoted section of the Clayton Act, had done in order to meet the decision in Henry vs. Dick, supra, the opinion stating: "We are confirmed in the conclusion which we are announcing by the fact that since the decision of Henry v. Dick Co., 224 U. S., 1, the Congress of the United States, the source of all rights under patents, as if in repsonse to that decision, has enacted a law making it unlawful for any person engaged in interstate commerce 'to lease or make a sale or contract for sale of goods * * * machinery, supplies, or other commodities, *whether patented or unpatented*, for use, consumption, or resale * * * or fix a price charged therefor * * * on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use * * * the goods * * * machinery, supplies, or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce, 38 Stat., 730." And in that connection it will be noted that in the dissenting opinion in Henry vs. Dick (see page 50), the Chief Justice, with two justices concurring, suggested the very congressional action which, we submit, was afterwards embodied in the Clayton Act, stating that their dissent would "serve to make it clear that if evils arise their continuance will not be caused by the interpretation now given to the statute, but will result from the inaction of the legislative department in failing to amend the statute so as to avoid such evils." That shortly after this decision was rendered Congress passed the clause in question, gives additional weight to the view that Congress "as if in response to that decision, has enacted a law making it unlawful for any person engaged in interstate commerce 'to lease or make a sale or contract for sale of goods,' etc."

Seeing, then, that the interstate commerce acts made unlawful by the Clayton Act were limited to the lease and and sale of goods, we turn to the second question, namely: Did the present contract "lease or make a sale or contract for the sale of goods"? We say "present contract," for as that contract is the one now used and whose future use is the practical commercial factor involved, we pass by all the preceding contracts and confine ourselves to the one on which the Curtis Company stands as the assertion of its lawful right to contract with its distributing agents. Turning, then, to this present contract of the Curtis Company, which is Exhibit D of its answer, and the pertinent parts of which are printed in the margin,[2] we note,

---

[2] To appoint the said party of the second part as district agent * * *.

2. To supply the district agent with copies of the Saturday Evening Post and of the Country Gentleman at two and one-half cents (2½¢) each, and of the Ladies' Home Journal at nine and three-quarters cents (9¾¢) each, transportation charges prepaid, provided that if the district agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to subage[illegible] and by

first, that the agreement, which is entitled a "District agency agreement," is in form and verbiage an appointment by a publisher of an agent, and an agent for limited territory and for a mutually optional time, for the purpose of (a) selling and (b) distributing its magazines. Now, there are no words in the contract which purport or contemplate the sale of such magazines, and there is express provision if a(a) sale or a (b) distribution to third parties is not effected, the magazines consigned are to be returned to the publisher. Indeed, the nature of the transaction, the necessary haste to get the magazines into the hands of the boys at once, shows of itself that there was no reason for transferring title by sale. It was not the handling of commodities of which sales would naturally be made. It was a contract for distributing and speeding up deliveries of an article whose whole value depended on the haste with which it passed from the agent's possession. Confirming these statements, we note that in clause one, "appoint the said second party as district agent for the Saturday Evening Post," etc., are words aptly used in constituting an agency, viz, "appoint," and of restricted territory "district agent." We note that clause 3 provides for the return and credit at consignment prices of unsold copies, and that clause 5 provides for the payment of interest at five per cent on the money deposit made by the agent as security for the magazines consigned. As to the agent making sales

---

sending on time the required fully itemized subagents' sales reports, or if the district agent fail to maintain a net sale of his quota of any one publication, as required by clause 8, the publishers may then charge three cents a copy for the Saturday Evening Post and for the Country Gentleman and eleven cents a copy for the Ladies' Home Journal, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security.

3. To give credit to the district agent, as the price paid, for unsold copies returned in accordance with the regulations governing returns, as stated on the order blanks last issued by the company.

* * * * * * *

8. To sell at least ——— copies of each issue of the Saturday Evening Post, at least ——— copies of each issue of the Ladies' Home Journal, and at least ——— copies of each issue of the Country Gentleman.

9. To supply subagents, both boys and dealers, with the Saturday Evening Post and the Country Gentleman at three cents a copy for resale at five cents a copy, and with the Ladies' Home Journal at eleven cents a copy for resale at fifteen cents a copy, and to make deliveries early on the morning of the sale date.

10. To refrain from displaying, delivering, or selling any copies to boys, dealers, or retail customers before the authorized sale date, as specified on the printed order blank furnished by the publishers.

11. To refrain from selling any copies in any territory known to be controlled by another agent under contract.

* * * * * * *

13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis agent to sell) any periodicals other than those published by the Curtis Publishing Company, and to refrain from furnishing any other publisher or his agents with the names and addresses of any Curtis agents, without first obtaining the approval of the publishers.

* * * * * * *

16. To permit the publishers to retain throughout the life of this agreement possession of the $——— herewith remitted by the district agent as cash security for his performance of his several obligations hereunder.

of the magazine, clause 8 obligates him to sell a certain number of copies of the magazine, and clause 9 binds him to deliver the magazines to dealers and boys "early on the morning of the sale date," and at certain specified prices. We also note that by clause 10 the agent binds himself not to display, distribute, or sell any of the magazines before an authorized sale date, and by clause 11 not to sell any copies in territory controlled by another agent. All of these and other details that might be cited evidence that the relation created by this contract and by its expressed terms meant to be created was one of agency, and that there is an entire absence in the contract of any terms or words usual or requisite to effecting or evidencing a sale, as well as of circumstances inviting or necessitating a sale.

We have not overlooked the fact that the contract provides for the maintenance by the agent in the hands of the publisher of an advance sum of money sufficient to indemnify the publisher for all magazines forwarded. But, in our judgment, this deposit can not, in view of the right of return, be regarded as a payment, but rather as an indemnity to secure payment for all copies the agent does not return. It is a fund on which the publisher is obliged to pay a substantial interest rate. It is an indemnity; and the fact that such indemnity is in money, instead of a bond or obligation to pay money, is of no significance, and the crucial question still remains: Is the contract which it indemnifies one of sale to a buyer or consignment to an agent for subsequent sales or distribution? It is, moreover, an indemnity fund for which the Curtis Company is bound to account to the agent. Nor is the accounting price of the magazines even fixed by the contract. It depends on the future efficiency of the agent. Nor is the fact to be overlooked that the contract, taken as a whole, could not be satisfied by the mere fact of sale to a buyer, for, if the transaction ended with a sale by the publisher, the whole spirit and purpose of the contract would be lost, which is that the distributing agent should distribute to the boys and the boys distribute to their personal customers. The subject of the contract is a large quantity of magazines, and the object of the contract is not to vest ownership of them in the other party to the contract, but to pass those magazines by the use of other agencies into the hands of the public. And the object of placing these magazines in the hands of the public is not alone to get from the real buyer of the magazine its comparatively small price, but by placing it in the hands of a vast number of buyers to thereby enable the purchaser to obtain that advertising patronage which is the financial mainstay of all such periodical publications. It has therefore seemed to us that the unique character of the subject matter of this contract, the object the publisher had in view, and the phraseology, conditions, and obligations of this contract unite to make the contract one of consignment to a distributing agent who was furthering the business of his principals and not one of a buyer who thereby acquires title for his own individual purposes. Such being the case, we hold the commission erred in the legal construction of this contract, and therefore had no proof before it to find, as it did

in its third finding, that "the respondent has made sales of its magazines to, or entered into contract for the sale of same, with certain persons," etc., and therefore its legal conclusion from such findings, viz, "that the acts and conduct set forth in paragraph 3 of said findings are, under the circumstances therein set forth, in violation of the provisions of section 3" of the Clayton Act, was in error, as was also the part of its decree which enforced such conclusion.

Having thus found that the distributive agency contract was not a violation of the Clayton Act, we next turn to the third question, namely: Does the making and enforcing of that contract, whether it be a contract of sale or distribution, constitute unfair competition in business? What is unfair competition in business? Now, while Congress has enacted, as we have seen, "that unfair methods of competition in commerce are declared unlawful," it has not defined unfair competition or specified what shall constitute unfair competition. From this absence of definition it is reasonable to infer that it was in the mind of Congress that, as unfair competition had long been a subject of judicial scrutiny, determination, and was involved in remedial suits at law for damages and of injunctive suits in equity to prevent continuance, the definition and ascertainment of what constituted unfair competition was a legal question which the law could determine. Indeed, in the nature of things it was impossible to describe and define in advance just what constituted unfair competition, and in the final analysis it became a question of law, after the facts were ascertained, whether such facts constitute unfair competition in business, for the test of fairness, as of fraud, is the application by the law of moral standards to the actions of men. While it was the exclusive right of a jury in a case at law to find the facts in any given case, it still remained the duty of the trial judge before entering judgment to decide whether from those facts the injury of unfair competition in business could be lawfully inferred. So also when the case was in equity, while it was the province of the judge to find the facts, it also was his duty and as well the duty of a reviewing court to decide whether upon those facts so found the injury of unfair competition in business existed. Presumably, with this recognized existing jurisdiction of Federal courts over cases of unfair business competition in mind, Congress passed the trade commission act, the pertinent parts of which we have heretofore noted in the margin. Such, then, being the existing and by the act unchanged jurisdiction of such courts in reference to questions of unfair competition between business competitors generally, and that jurisdiction being exercised on well-established legal principles, it follows that when Congress invoked an exercise of supervisory power on the part of such courts over the action of the trade commission and enacted that this supervisory power should be exercised before the orders of the trade commission could be enforced, it would seem to follow that the supervisory powers which the court was meant and intended to exercise were the usual powers exercised in the usual way by those courts when exercising their power to review; and while the act pro-

vided that the findings of fact made by the commission were final and conclusive, it still remained the duty of the supervising court to determine the same legal questions which a supervising court had in reviewing actions of the trial court, namely, whether under all the facts found by the trade commission a case of unfair business competition was established. That Congress meant to invoke some supervisory power precedent to the trade commission enforcing its orders is apparent, and unless that invoked jurisdiction meant in effect to submit to the judgment of the Circuit Court of Appeals the legal question whether the facts found by the commission established that the competition was by the judgment of law unfair, and if that supervisory power did not charge the Circuit Court of Appeals with the legal duty of judicially deciding whether the facts found were such as warranted injunctive relief by the commission, we may well ask the question, What supervisory power did Congress intend should be exercised by the courts of appeals? For if such supervisory power, which is one of substance and judicial in its nature, is not to be exercised by that court, then it is manifest that the supervisory power which Congress invoked was one of mere shadow and not of substance. To our mind, the situation is wholly different from that of the Interstate Commerce Commission. There the basic question is the fixation of rates, which is a question of business discretion and in no sense a legal, judicial, or moral one. Manifestly Congress did not mean to confer upon the trade commission the power to grant injunctions in cases of business competition where courts would not be justified in granting injunctions. Indeed, when Congress, in invoking such reviewing and supervisory power, said "the court * * * shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript, a decree affirming, modifying, or setting aside the order of the commission, it was using language which aptly described the customary jurisdiction and power theretofore exercised by Circuit Courts of Appeals in reviewing cases of alleged unfair business competition.

Such, then, being the supervisory jurisdiction conferred on this court, we turn to the question before us and inquire whether the record as a whole, which includes not only the findings of fact made by the commission, but also the proofs in regard to which the commission made no findings, disclose a case of unfair business competition on the part of the Curtis Company which warrants a decree which in effect enjoins them from successfully continuing a distributing and selling agency they have utilized for years. Before taking up that question, we note the fact that while this proceeding was pending before the Trade Commission, the Pictorial Review Company invoked the jurisdiction of the United States District Court for the Southern District of New York, by a bill filed against the Curtis Publishing Company, to enjoin unfair business competition. That court, in an opinion reported at 255 Fed. Rep., 208, said:

"What the complainant evidently desires is not merely to sell to these wholesalers, which it can do already in cases where the wholesalers have a retail trade, and to the extent of that retail trade, but to avail itself of the organization of the Curtis boys, built up by the ingenuiy, labor, and capital of the defendant. The defendant in insisting upon maintaining the integrity of the system, is not, in my opinion, guilty of unfair trade. On the contrary, the complainant, in attempting to avail itself of this system, is engaging in unfair trade. That it can not build up a system of its own, if it desires to do so and will go to the trouble and expense, I do not believe. It is attempting here to secure a preliminary injunction to prevent the defendant from contracting with the latter's district agents not to market the Pictorial Review through boys and dealers. To grant such an injunction would break up what I think is a perfectly legitimate system for the promotion of sales of the defendant's magazines, and would enable the complainant, without expense, to employ the organization built up and fostered by the defendant."

An examination of that case shows that upon facts which in no wise controverted the fact findings of the commission, heretofore set forth, that court held the Curtis Company's course did not constitute unfair business competition. We see no reason to differ from the conclusion reached by that court, and unappealed from as it is, it judicially and finally adjudged that as between these companies the Curtis Company has not been guilty of unfair competition in business. And such matter being as between these parties finally adjudged, two things follow: First, the competition of the Curtis Company is adjudged not unfair; and, second, no court could thereafter in a suit between these parties issue an injunction to enjoin such competition. Of course, the decree in that case where private rights only are concerned, binds only the parties and can in no way affect the jurisdiction of the Trade Commission, but the fact that while the business relations of these parties were under review by the commission one of the parties invoked, as it had a right to do, the jurisdiction of a court in equity and sought to enjoin such alleged unfair competition, and that court, after hearing, held that the defendant's business operations did not constitute unfair competition, but, on the contrary, the complainant's actions did, and the Trade Commission thereafter, upon similar facts shown to it, held the Curtis Company was guilty of unfair competition in business, the mere existence of such an anomalous and contradictory holding of legal conclusion upon the same general facts in and of itself suggest that in the exercise of our reviewing, supervisory jurisdiction it is for us to decide whether the legal question before the Trade Commission was rightly decided by it, and in deciding that question we may give due consideration to the reasoning and opinion of the court referred to, with a view to avoiding conflicting holdings under substantially similar states of fact.

But before taking up that question, let us make it clear that we are not violating, or in any way ignoring, the statutory limitation

on our supervisory reviewing jurisdiction, namely, "that the finding of facts, if supported by testimony, shall be conclusive." The findings of fact by the Trade Commission we have quoted in full. Those findings we accept as established, and they are the sole foundation on which the order of the commission is bottomed: "From the foregoing findings, the commission concludes," is its own statement.

But the case did not turn on this restricted phase, which, in our judgment, totally ignores the real situation and makes no finding on those facts, which are really determinative of the question whether the competition of the Curtis Company was unfair business competition. That real situation, as we have seen from the uncontradicted proof, among other features, consists of: First, the creation through years, with great effort and large expense, of the Curtis's schoolboy selling organization; second, that the district distributing agents constitute the control, morale, recruiting, and existence of the schoolboy selling organization; and third, the efforts of two competitors to appropriate that selling agency to themselves, with the undisputed consequence of undermining its morale and destroying its efficiency; and lastly, that the purpose of the Curtis Company in putting in its contract the clauses objected to, was not to interfere with commerce or with the circulation of the four hundred magazines, but solely to thwart the unfair plan of two unfair competitors who sought to undermine the undivided loyalty of the Curtis distributing district agents and through them disrupting the Curtis schoolboy organizations.

Now, it is very apparent that where the supervisory review by the Circuit Court of Appeals which Congress invoked provided that that court "shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript, a decree," that it is the province and indeed the duty of the reviewing court to consider not merely the findings of the commission but the whole record, the whole proofs, and the whole proceeding, and to say, first, whether, in view of all the proofs, the limited facts found by the commission really passed on the pertinent and decisive facts, and so warranted an injunction; and, second, if such limited facts do not reach the merits and do not alone legally justify and warrant a decree of unfair competition and injunctive relief, then since Congress has enacted that the Circuit Courts "shall make and enter upon the pleadings, testimony, and proceedings set forth in such transcript, a decree affirming, modifying, or setting aside the order of the commission," it is quite clear that it is not only the province but the duty of the Circuit Court of Appeals, and indeed the expressed purpose of Congress, that such reviewing court should itself examine the pleadings, the entire testimony, and proceedings, and upon such inclusive examination, determine whether the facts found by the commission and the proofs on which the commission made no findings and which the court, in the absence of such finding, itself finds and determines, legally established a case of unfair business competition by the Curtis Company. Taking, there-

fore, the record, proofs, and pleadings as a whole, we hold as a legal and judicial conclusion that the proofs are not such as can support a judgment or decree of unfair competition on the part of the Curtis Company toward the Pictorial Company and the Crowell Company. That company legitimately and in course of fair business dealing built up and recruits by its distributing district agents a selling agency of schoolboys, the whole efficiency of which consisted in undivided loyalty and single-hearted service, primarily of the district agents and, secondarily, of the boys to that company. The whole situation was unique. This was not a case of commerce in the ordinary channels of salesmanship. The Curtis Company, by the personal work of their distributing agents, selected boys of tender years, whose work and business was school work, whose time was limited, and whose capacity of salesmanship was restricted to a magazine that sold for five or ten cents, and to a sale of approximately not exceeding fifty copies. Had the magazine been one that sold for twenty-five or thirty cents, it is quite evident the boys could not have sold it. Were they to try to sell more than fifty, it would be at the expense of their school duties, their play time, and the wishes of their parents. There can be no doubt under the proofs that the Curtis Company in building up this boy selling organization through the distributing district agents was not throttling or indeed dealing with the ordinary channels of commerce, but was enlarging the sphere of commerce by enlisting in its service the selling power of schoolboys, who, but for this organization, would not only not have taken part in present commerce but who would have missed the commercial training the Curtis Company alone gave them for future commerce, and the Pictorial Company and the Crowell Company had no hand in giving them, and indeed it seems to us that these companies will, if this injunction here complained of were enforced, succeed in really throttling commerce by disrupting and destroying an efficient agency which is extending commerce. Moreover, it is clear that these companies, as well as other publishers, already have full, unrestricted circulation agencies. The proofs show that the American News Company still continues its general business of distributing the publications of all publishers who choose to use its service; that there are upward of four hundred different magazines which are distributed and circulated solely through its agency and the United States mail, and that its service reaches every retailer of magazines in the United States. In that regard the proof of the scope of the distribution facilities of the News Company and of their being open to and used by the particular competitors of the respondent, toward whom they are alleged, in this proceeding, to have used unfair business competition by the contract in question, and that the retailers to whom the contract forbids its distributing agents to furnish other magazines, can be, and in fact are, furnished with all other magazines, including the magazines of the complaining competitors of the Curtis Company, by the American News Company service. All this is shown by the proofs of the Government, in the testimony of witnesses, among whom

we quote from Thomas H. Beck, of the Crowell Company, a complaining competitor (p. 106):

"Q. Will you now describe how the distribution of magazines is made through the American News Company—how do they operate?

"A. We supply our publications to them and they distribute them through their branches and their branches redistribute to retail newsdealers. They cover the entire country with that service.

* * * * * * *

"Q. Have you been able to reach all the retail dealers through the agency of the American News Company?

"A. Yes; we can reach all the retail newsdealers through the American News Company. We can reach them—in other words, you can ship to them, because if their location and address are known, you can make the shipments.

* * * * * * *

"Q. Now, you have not depended on the American News Company entirely as a matter of getting your magazines to the people?

"A. Yes, sir; in the matter of single-copy sales, we practically depend on them."

The proofs further show that through these retailers they reach the boy salesmen who get their supplies from these retailers. In that regard the same witness, speaking of the retailer, says (p. 119):

"He gets the star edition for sale over his own counter and gets the boy edition for sale to the boys.

"Q. Do you know of any place or locality where a retailer could not get, through the American News Company, the star edition of the magazine you refer to, and your other magazines?

"A. I do not."

To the same effect is the testimony of B. A. Mackinnon, circulation director of the Pictorial Review, a magazine published by the Pictorial Company. Mr. Mackinnon's testimony was (p. 269):

"Q. Is it not possible for any retail dealer in any part of the United States to get copies of your magazines through the American News Company, for sale?

"A. Yes, sir.

"Q. And it has always been so; is not this the fact?

"A. As far as I know; yes, sir."

It will thus be seen that the retail dealers in every part of the United States were reached for many years by the Curtis Company and its competitors, and that this service and method of reaching the retailer's customer and of the dealer selling to boy salesmen is now open to and used by the competitors of the Curtis magazines. From this it will be seen that when the Curtis Company, by clause 13, kept its distributing agents from "wholesaling to * * * dealer * * * any periodical other than those published by the Curtis Company * * * without first obtaining the approval of the publishers," they did not prevent or hinder such retailer from getting the publications of these other publishers through the American News Company.

It will also be seen that in dealing with the magazine business we are not dealing with anything that has been made the subject of monopoly, sole supply, or by deprivation of which the public has been deprived of anything it desires. There is no suggestion in the arguments or proofs in the record that any person who desires any one of the four hundred magazines of the country, including these competing magazines, can not readily get such magazine from any retailer to whom he applies in person, have it regularly delivered to him by a boy salesman who deals with such retailer, or directly from the publisher through the mails. Indeed, the latter agency is the customary one by which we usually get our magazines. We note these facts because this freedom of access to the consumer and the entire absence of monopoly and nondeprivation of the public have been regarded as an important element in the decision of cases of alleged unfair business competition. Thus in Ford vs. Boone, 244 Fed. Rep., 341, the Circuit Court of Appeals of the Ninth Circuit, says: "It is to be borne in mind that the plaintiff has no monopoly of the automobile business, but only of one out of almost innumerable kinds of cars, all differing in detail one from the other, but of the same general type and all designed to be used in the same general manner, and for the same general purpose. If, as was admitted to be the fact in the Motion Picture Patents Company case, the plaintiff's car were wholly indispensable to the carrying on of a great industry, and if its plan of marketing were such as to constitute an instrument of oppression or favoritism, then the courts should perhaps be astute to discover means by which to disorganize its system and to encourage competitive effort as between the salesmen or distributors of its product; but such is not the case." Indeed, there is no proof in this record that any harm has been done in the past by the business methods followed by the Curtis Company, nor is there any proof that commerce has been in any way throttled thereby. By this order of the commission, an injunction is now issued which, whatever may be said to the contrary, disrupts and forbids continuation of a business course openly pursued for years and takes away, without compensation, the asset of good will which can not be bought with money, but which is the result of years of personal service and loyalty. Injunction is so drastic and prohibitive a remedy, its issuance by a court of equity so carefully safeguarded that to have substantial question of the wisdom of such issue often suffices to withhold. To doubt is to decide, and this well-founded principle of equity in itself would lead a court of original jurisdiction to deny the strong arm of injunctive relief. But in this case the foundation of our order is not doubt, but certainty; for accepting in their entirety and finality all facts found by the commission, but taking the whole record and the proofs on which the commission has made no finding we are satisfied, as the statute provides "upon the pleadings, testimony, and proceedings set forth in the transscript" the charge of unfair methods of competition could not be legally adjudged. If this was a case where a trial court had

submitted these proofs to a jury from which to find a verdict of unfair business competition, a reviewing court would be constrained to set such verdict aside as not having testimony to support it. In passing this act and granting to a commission power in a new and untested field, to issue injunctions which should stop and prohibit commerce, we are of opinion that Congress in invoking the reviewing supervision of Federal courts, experienced in review, meant that those courts should exercise that reviewing power as they had been accustomed to do it theretofore.

So viewing the statute and so examining the whole record, we consider it the duty of this court to make effective the power of "setting aside the order of the commission" which Congress so enacted.

Let a proper decree be drawn.

(Indorsed on cover:) 2511. March T. 1920. U. S. C. C. of App., 3rd Cir. Curtis Publishing Co. vs. Federal Trade Commission. Opinion, Buffington, J.

In the United States Circuit Court of Appeals for the Third Circuit.

March Term, 1920.

CURTIS PUBLISHING COMPANY, PETITIONER, *vs.* FEDERAL TRADE COMMISSION, RESPONDENT. } No. 2511 (List No. 24).

Appeal from the Federal Trade Commission of the United States.

This cause came on to be heard on the transcript of record from the Federal Trade Commission of the United States and was argued by counsel.

On consideration whereof, it is now here ordered, adjudged, and decreed that the order of the said Federal Trade Commission in this cause be, and the same is hereby, set aside.

Philadelphia, March 2, 1921.

Per curiam:

JOS. BUFFINGTON,
Circuit Judge.

(Endorsements:) 2511. Order setting aside order of Federal Trade Com. Received and filed Mar. 2, 1921. Saunders Lewis, jr., clerk.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the Federal Trade Commission of the United States, greeting:

Whereas, lately before the Federal Trade Commission of the United States, in a cause between the Curtis Publishing Company (defendant below), petitioner, and the Federal Trade Commission (plaintiff below), respondent, an order was entered by the said Federal Trade Commission against the Curtis Publishing Company on

the twenty-first day of July, 1920, which order is of record in the office of the said Federal Trade Commission, to which reference is hereby made, and the same is hereby expressly made a part hereof.

And whereas, in the term of March, in the year of our Lord one thousand nine hundred and twenty, the said cause came on to be heard before the said United States Circuit Court of Appeals on the said transcript of record and was argued by counsel:

On consideration whereof, it is now here ordered, adjudged, and decreed that the order of the said Federal Trade Commission in this cause be, and the same is hereby, set aside, March 2, 1921.

You, therefore, are hereby commanded that such execution and further proceedings be had in said cause as, according to right and justice and the laws of the United States, ought to be had, the said petition notwithstanding.

Witness the honorable Edward D. White, Chief Justice of the Supreme Court of the United States, at Philadelphia, the first day of April, in the year of our Lord one thousand nine hundred and twenty-one (1921).

Costs of—

Clerk	$———
Printing record	———
Attorney	———
	———
	$———

SAUNDERS LEWIS, Jr.,
Clerk of the U. S. Circuit Court of Appeals, Third Circuit.

(Endorsements:) Original File No. 2511. U. S. Circuit Court of Appeals, Third Circuit. No. 24, March Term, 1920. Curtis Publishing Company, petitioner, vs. Federal Trade Commission, respondent. Copy of mandate. Received and filed Apr. 1, 1921. Saunders Lewis, jr., clerk.

UNITED STATES OF AMERICA,
Eastern District of Pennsylvania, Third Judicial Circuit, sct.

I, Saunders Lewis, jr., clerk of the United States Circuit Court of Appeals for the Third Circuit, do hereby certify the foregoing to be a true and faithful copy of the original petition for review and proceedings in this court in the case of Curtis Publishing Company, petitioner, vs. Federal Trade Commission, respondent, on file and now remaining among the records of the said court in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said court, at Philadelphia, this 11th day of May, in the year of our Lord one thousand nine hundred and twenty-one and of the independence of the United States the one hundred and forty-fifth.

[SEAL.]

SAUNDERS LEWIS, Jr.,
Clerk of the U. S. Circuit Court of Appeals, Third Circuit.

○

MAY 27 192
JAMES D. MA

Supreme Court of the United States,

OCTOBER TERM, 1920.

No. [redacted]86

FEDERAL TRADE COMMISSION,

Petitioner,

against

THE CURTIS PUBLISHING COMPANY,

Respondent.

APPENDIX TO BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI, CONTAINING OPINION OF CIRCUIT COURT OF APPEALS.

JOHN G. MILBURN,
JOSEPH W. WELSH,
JOHN G. MILBURN, JR.,
RALPH B. EVANS,
Counsel for Respondent.

Law Print Job Printing Office, Inc., 184 Fulton St., N. Y.

Appendix.

IN THE

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

CURTIS PUBLISHING COMPANY,
Petitioner,

vs.

FEDERAL TRADE COMMISSION,
Respondent.

No. 2511
March Term, 1920.

Before BUFFINGTON and WOOLLEY, Circuit Judges, and MORRIS, District Judge.

BUFFINGTON, *J.*

On July 5th, 1917, the Federal Trade Commission issued a complaint against the Curtis Publishing Company, alleging that it had used unfair methods of competition in interstate commerce in violation of Section 5 of the Act of Congress of September 26, 1914, and had also violated the provisions of Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act. This was followed by an amended complaint on the 8th day

of April, 1918. The Curtis Company answered these complaints, and thereafter a large amount of testimony was taken, to which we will hereafter refer. On the 21st day of July, 1919, the Trade Commission made its findings of fact, and from these finding drew the conclusion "that the method of competion set forth in Paragraph 2 of said Findings, is, under the circumstances therein set forth, in violation of the provisions of Section 5 of an Act of Congress, approved September 26, 1914, entitled 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,' and that the acts and conduct set forth in Paragraph 3 of said Findings, are, under the circumstances therein set forth, in violation of the provisions of Section 3 of an Act of Congress approved October 15, 1914, entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.'" The same day the Commission issued a restraining order on the Curtis Company, to desist from continuing such alleged unfair method of competition. Thereupon, the Curtis Publishing Company brought this proceeding to obtain a review of such order.

The Act of September 25, 1914, constituting the Trade Commission, provides as follows: "Sec. 5, That unfair methods of competition in commerce are hereby declared unlawful. * * * Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue

and serve upon such person, partnership, or corporation a complaint stating its charges in that respect. * * * The testimony in any such proceeding shall be reduced to writing and filed in the office of the commission. If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. * * * If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon such person, partnership, or corporation and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be con-

clusive. * * * Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals, by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive."

In pursuance of the last provision of the statute quoted above, the Curtis Company by this proceeding seeks a review of the Commission's order, which order, together with the Commission's findings of fact and the conclusion drawn therefrom, are printed at length in the margin.* An examination of these

*"PARAGRAPH ONE: That the respondent, Curtis Publishing Company, is a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the City of Philadelphia, State of Pennsylvania, and is now, and was at all times hereinafter mentioned, and for many months prior thereto, engaged in the publication, sale and distribution of weekly and monthly periodicals, in commerce among the several States and Territories of the United States and the District of Columbia.

"PARAGRAPH TWO: That in the course of such commerce, the respondent has entered into contracts with certain persons, partnerships or corporations *to sell* or distribute its magazines, by the terms of which contracts such persons, partnerships or corporations, have agreed, among other things, not to 'act as agent for or supply at wholesale rates any periodicals other than those published by the Publisher'—the respondent herein—without the written consent of such Publisher; that of such persons, partnerships or corporations, approximately four hundred forty-seven (447), hereinafter referred to as 'dealers,' are and previous to entering into such contracts with respondent were regularly engaged

findings of fact shows that no findings whatever have been made in reference to the greater part of the vast volume of testimony in this case, and it therefore becomes the duty of this Court, with a view to giving due effect to such testimony, to here recite what the proofs disclose as to the operations of the defendant company in those matters in which there has been no finding of fact by the Commission. And indeed, in our opinion, such an examination and the ascertainment of the facts of such prior business dealings of the respondent company, is absolutely essential to a full understanding and a just determination of this case. Accordingly, to the facts deducible from such testimony, this Court now addresses itself.

The Curtis Publishing Company is a corpora-

---

in the business of wholesale dealers in newspapers or magazines, or both, and as such are as aforesaid engaged in the sale or distribution of magazines, or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision as aforesaid, have requested respondent's permission to engage also in the sale or distribution of *certain publications* competing in the course of said commerce, with those of respondent, which permission as to said competing publications has been *uniformly denied by respondent;* that in enforcing said contract provision as to said dealers, and in denying them said permission, respondent has prevented and now prevents certain of its competitors from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and in numerous cases, the *only medium* for the distribution of such publications in the various localities of the United States; that such method of competition so employed by respondent in the course of such commerce, as aforesaid, has proved and is unfair.

"PARAGRAPH THREE: That in the course of such commerce, the respondent has made sales of its magazines to, or entered into contracts for *the sale* of the same with certain persons, partnerships or corporations, by the terms of which sales or contracts for such sales, such persons, partnerships or corporations have agreed, among other things, not to 'act as agent for or supply at wholesale rates, any periodicals other than those published by the 'Publisher'—the respondent herein—without the written consent of such Publisher; that of such persons, partnerships or corporations, approximately four hundred forty-seven (447), hereinafter referred to as 'dealers', are and, previous to entering into such contracts with respondent, were, regularly engaged in the business of wholesale dealers in newspapers or magazines, and as such

tion of the State of Pennsylvania. It was organized in 1883 with a capital of two and a half million of dollars, which has since been increased to twenty-five millions. Its business was the publication of periodicals, and from its incorporation until about 1897, that business was the publication of the Ladies' Home Journal. In 1897 it acquired the Saturday Evening Post, and in 1911 the Country Gentleman. The Journal was a monthly publication; the other two, weekly. From 1883 to 1909, with the exception of a brief period of an experiment of circulation in 1906 through wholesalers, the Curtis Company distributed for these twenty-six years, the Home Journal by mail and through the American News Company, the business of which latter company was the circulation and sale of newspapers and magazines through the

---

are engaged in the sale or distribution of magazines or newspapers, or both, of other publishers; that many of said four hundred forty-seven (447) dealers, and many others who have become such wholesale dealers since entering into such contracts, bound by said contract provision hereinabove referred to, have requested respondent's permission to also engage in the sale or distribution of certain publications competing in the course of said commerce with those of respondent, which permission as to said competing publications has been uniformly denied; that in enforcing said contract provision as to said dealers and in denying them said permission, respondent has prevented and now prevents, *certain of its competitors* from utilizing established channels for the general distribution or sale of magazines or newspapers, or both, of different and sundry publishers; that such established channels are in most instances the principal and most efficient, and, in numerous cases, the only medium for the distribution of such publications in the various localities throughout the United States; that the effect of said contract provision has been, and is, to substantially lessen competition with respondent's magazines and tends to create for the respondent a monopoly in the business of publishing magazines of the character of those published by respondent.

"CONCLUSIONS: From the foregoing findings, the Commission concludes that the method of competition set forth in Paragraph 2 of said findings, is, *under the circumstances therein set forth,* in violation of the provisions of Section 5 of an Act of Congress, approved September 16, 1914, entitled 'An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes', and that the acts and conduct set forth in Paragraph 3 of said findings are, under the circumstances therein set forth, in violation of the provisions of Section 3 of an Act of Congress approved October 15, 1914, entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes.'"

United States. The arrangement between the Curtis Company and the News Company was one of a distributive agent and not of sale, the undistributed copies being returned to the Curtis Company by the News Company. The Curtis Company distributed the Saturday Evening Post by the same method for some two years after its acquisition, but in the latter part of 1899 it began to sell and circulate that publication by the addition of schoolboy agents to its selling staff. And in that connection we here note that while the attempted use by some of the competitors of the Curtis Company of these schoolboys as the agency of magazine sale and personal delivery to customers, is the end which these competitors have in view, yet, as the means of such control of the schoolboys, the vital, strategic factor underlying this controversy is the use and control of the distributing agents later referred to, who furnished the magazines to the boys, and who are the operative and vital connecting and controlling link between the schoolboys and the Curtis Company.

These combined agencies of the American News Company and the schoolboys organized by the Curtis Company were both employed by the Curtis Company for some ten years thereafter. During this time, the new schoolboy organization had grown to such extensive size and had been so successful, that in 1910 the Curtis Company wholly discontinued its prior status of distributive agency with the American News Company, and thereafter its relation with the News Company was that of sale only instead of agency, the News Company not having the right to return unsold periodicals to the Curtis Company. At that time, the Curtis Company began also contracting with and sending its publications to independent wholesalers throughout

the country, who were not related to, or connected with, the American News Company.

In addition to its contracts with the American News Company and the wholesale dealers in newspapers and magazines in the various cities and towns of the United States, the Curtis Company has also made contracts with persons and concerns who had not previously been engaged in the sale or distribution of periodicals, for distribution through boys. The number of wholesale distributors of all kinds under contract with the Curtis Company was, by the testimony, shown to be 1535.

The schoolboy selling organization of the Curtis Publishing Company was started by that Company in 1899. At that time, as we have said, practically all magazines and periodicals were distributed through the American News Company. The Curtis Company, when it acquired the Saturday Evening Post, which was a weekly publication, conceived the idea of increasing its circulation through schoolboys. The success of the plan in selling the Post was such that it was extended to the Home Journal and the Country Gentleman. At first, these boy salesmen got their copies, not through local distributing agents, but direct from the Curtis Company in Philadelphia. But as their number grew, it was found difficult to deal directly with them from the home office, and the Curtis Company therefore appointed district distributing agents in various localities, whose duty it was to distribute the periodicals to the boys and who were likewise charged with the duty of recruiting and supervising the boys themselves. These distributing agents, largely drawn from the ranks of the schoolboy salesmen, are, as we have said, the permanent keystones and pivotal and controlling factor in the whole plan, for the schoolboy salesmen being,

in the nature of things, a temporary and changing body, they must be constantly recruited, and this recruiting the distributing agents do. The distributing organization as a whole has been developed and is being carried on at large expense. At the present time, it consists approximately of 1500 district agents, having supervision of some 35,000 boy salesmen, and the organization is kept up at an expense of about a million and a half dollars a year, and it is the principl agency employed by the Curtis Company in distributing its periodicals, and without control and undivided loyalty of which its business would materially suffer.

The proofs show that the circulation of the Post increased very rapidly with the use of these schoolboy salesmen, but that this was only brought about by the overcoming of many difficulties and the expenditure of large sums of money, and the education, so to speak, of the boys and their parents and eventually by the use of local distributing agents, who, on the ground, did the work the Curtis Company originally did from the home office. The development of the system is set forth in the testimony of M. E. Douglas, as follows: "Q. Did you encounter any difficulties in circulating through boys the way you did? A. Yes. Q. What were some of them? A. We found a prejudice in the minds of the parents and others against the idea of having boys sell magazines in this way. They looked upon the work of selling magazines as being the same as the work done by newspaper boys selling newspapers on the streets. There was a prejudice against it. They considered the newsboy's work as blind-alley work. We had to make our methods different and our plans different in order to win the coöperation of the parents and teachers and others, and that required long and

arduous work and the expenditure of a good deal of money. We had to inject into our plan an educational content in order to win the convinced participation of parents in our plan, with respect to boys. Q. What other difficulties did you have? A. We found the boys fickle and we had to devise various ways and means of retaining their interest and their efforts. Our effort was almost entirely to get steady customers whom the boys might serve regularly from week to week, and we, of course, had to teach the boys how to do this and tell them how. Q. Did you secure the coöperation of the parents and the teachers of the boys you had selling the 'Saturday Evening Post'? A. We did. Q. Was the 'Post' in the beginning known throughout the country? A. It was not known west of the Alleghanies. Q. What was the character of the boys who were selling the 'Saturday Evening Post' at the time you mentioned? A. Almost all home boys and schoolboys who sold nothing but our magazines. Q. Explain the plan you had of selling copies of the 'Saturday Evening Post', through boys. A. As I stated, the boys sent in their remittances and orders to Philadelphia, and we mailed the copies back to the boys. Then, in order to carry out, or in order to accomplish our plans, we had to make it possible for the boys to learn how to sell. We began printing leaflets and pamphlets and house organs, in which we placed suggestions for the guidance of the boys, telling them what to say about the publications—telling them what to say about the articles or features of the publications. We, in short, had almost to put into the mouths of boys what they should say about the articles in the magazines, and we had to help them to identify the class of readers to whom to go. We had to associate the particular article with the

prospective purchaser in the mind of the boy, in order that he might judge how to intelligently approach the reader who would be most apt to buy the particular article or issue. That required a good deal of work, in addition to the other necessity of getting the convinced participation of the parents of the boys in this proposed plan. Q. How did you obtain the participation of the parents and teachers? A. We built up a circulation of twenty-five to forty thousand and then we found it difficult to make further increases. The increases that had been made up to that point did not follow, and we began to analyze the reasons for that, and we found that it was—— Q. How did you obtain the participation of the parents and teachers that you spoke about? A. By emphasizing the business-training value of this work and pointing out what was involved in it. Q. How was that done? A. By concrete illustrations as to what was involved in that. Q. Was that done by traveling men or correspondence? A. We began with a few traveling men, in about 1901, and we gradually increased the force so that we had traveling men as well as correspondence helping to this end. Q. What educational feature was incorporated in your method? A. Eventually we worked out the plan of the League of Curtis Salesmen. Q. The what? A. The League of Curtis Salesmen. Q. What was that? A. A league composed of the organization of our better boys—the boy reaching the highest rank in the league is assured of a good salaried position obtained by us for him. There are several ranks in the league. This was the culmination of our effort at imparting the educational content to the parents. Q. That was the culmination of your effort that began in 1899 or 1900, when you first started to break down this prejudice of

the parents and teachers? A. Yes, sir. Q. Which you testified about? A. Yes, sir. Q. Was there anything with respect to the vocational training of boys other than you have testified, with respect to the instruction that you gave them? A. Oh, yes; we have used moving-picture films, and we have had conventions—Q. I mean at that time. A. In the early time? Q. Yes. A. We emphasized points like this: 'Boys in connection with this work have opportunities to learn something about the keeping of accounts, because they have accounts to keep with their customers and with the district agent, and we emphasized the desirability of learning salesmanship, by reason of the fact that the vocation of salesmanship is one of those vocations having a large number of people employed in it, larger, in fact, than all but three or four other vocations, perhaps. For instance, bookkeeping—that is taught in almost every public school, yet there are several salesmen for each bookkeeper, and you hardly find salesmanship taught in any high school—at least not one in a thousand. Q. At that time, in 1899 and 1900, the boys were in direct contact—that is, the boys who were selling the 'Saturday Evening Post'—were in direct contact with the main office of the Curtis Publishing Company in Philadelphia? A. Yes, sir. Q. Did you have any local agents at that time—in the beginning? A. Not in the beginning. Q. What gave rise to the appointment of local agents—just briefly explain that, Mr. Douglas? A. We found need of local supervision. Q. Local supervision of the boys? A. Local supervision of the boys, yes, sir, in order to adapt it locally—to meet local conditions—the plans I have described. That is when we began appointing district agents. Q. When did you appoint the first district agent of the Curtis Publishing Company?

A. The first district agent was appointed in about 1901. Q. Who was it? A. Beverly Roy Dudley, of Richmond, Virginia. Q. Was he a boy salesman? A. He had been a boy salesman. Q. He had been a boy salesman? A. Yes, sir. Q. He was the first district agent appointed? A. Yes, sir; the first district agent appointed. Q. Who was the next agent appointed? A. I think the next was Wallace Greenbaum, of Denver, Colorado. Q. Had he been a boy—a Curtis boy? A. Yes, sir; he had been a Curtis boy. Q. Did you keep on appointing district agents after that, from time to time A. We appointed a few and watched them to see what developed and as excellent progress followed, then we began appointing other district agents, just as fast as we could everywhere. Q. Have you any idea about how many you had after the first six months—just approximately? A. We probably worked for about three months with a dozen, to see what the developments were. Then, within six months after that, I should say we had a hundred or two. Q. What was the main reason for your appointing these district agents, and what were they supposed to do? A. *We wanted a representative locally—an agent locally— who would coach these boys and train them as salesmen. We wanted to shift, with respect to this effect, the center of gravity from Philadelphia to these cities, and have an agent there who would coach these boys and do the same things we were doing at Philadelphia.* Q. Did that involve meeting with the parents and teachers. A. Yes, sir; that involved meetings with the parents and teachers. Q. What did the agent have to do at that time with respect to making any reports? A. Very soon—in due course, after we had appointed a considerable number of them, so it became a practical thing, then we began to ask

them to make reports of sales by boys individually. Of course, when we appointed one of those agents we turned over to the agent all the boys in the town who had been previously buying from us and asked them to buy from the district agent, thereby giving the district agent the local organization to start with, giving them the boys we had been previously supplying, and as soon as it became a practical thing, we had these agents report to us the sales by the boys individually. Q. So after 1901, which was the beginning of the employment of district agents, you testified, I think, that you put in more from time to time at various places? A. Just as fast as we could. Q. Now, at that time, how were the district agents located and found—selected? A. They were placed largely by correspondence, for the reason that in the early days we did not have an adequate force of men. We had applications from a number of the boys, asking for appointment. In our house organs, we made mention of the arrangements that had been made with district agents. Mr. Daly: What question is he answering? Mr. Welch: He is answering how the district agents were selected and found. The Witness: In our house organs, we made mention of the arrangements that had been made with Beverly Roy Dudley and with Wallace Greenbaum, and with others, and this resulted in applications coming to us from boys in other cities, who wanted similar arrangements made. Q. Did you have any traveling men appointed then? A. We had a few, yes. Then as we found this plan proving successful, we advertised. We advertised for persons to act as agents for us. Q. And this was covering the period from 1901, up to about when? That is, it was a continuing period, after 1901? A. Continuing period, yes. Q. Now, what was the character of the

men, other than boys, that were appointed district agents? A. Chiefly retail dealers. Q. Retail dealers in what? A. News dealers, stationers, bookstores, druggists, tobacconists, candy stores occasionally—every kind of a retail store. Q. Did you endeavor at first to obtain as district agents one of the boys who had been selling the 'Post'? A. The preference was always given, under our original instructions, to one of the boys who had previously been selling, if there were one qualified for leadership of the others. Q. And following that, your traveling men or you would appoint a retail dealer? A. *Someone qualified for leadership, chiefly retailers.* Q. And you kept on appointing—did you after that keep on appointing boys as district agents, wherever available? A. Yes; we still do so. Q. And still do it? A. Yes. Q. That is, boys who previously sold the 'Post' and the Curtis publications? A. *Yes; there are thousands of boys, right now, looking forward to the time when they may get to be district agents.* Q. What did you do with respect to extending district agents or not? A. In about 1909, we began to use traveling men on a large scale, to appoint district agents in towns where we then had not appointed them."

From this it will be seen that the development of these districts agents was a natural outgrowth of the commercial and fair development of the business; that the first district agent was appointed in 1901; that the first appointees were old boy salesmen; that on the district agents was placed the responsibility of personally dealing with the boys locally instead of from the home office at Philadelphia; that beginning with a few such local distributing agents, the success of the movement developed rapidly. And, indeed, the very business of these distributing agents which these two competing

companies seek to share, namely the boy force of these agents, was turned over to the agents originally by the Curtis Company itself.

That as the plan of working through distributing district agents proved successful (p. 1331) the Curtis Company began advertising for persons to act as distributing agents (p. 1331) "news dealers, stationers, bookstores, druggists, tobacconists, candy stores, originally—every kind of a retail store." However, the preference was always given to one of the boys who had developed in the boy organization; and that the extent of this preference for the boys was shown by the fact that out of 1700 or 1800 distributing agents the Curtis Company had had, in 1910, about 85 per cent of boys and retail dealers. Indeed, the fact that from the boys there were being developed *trained* distributing agents and that these distributing agents were *recruiting* new boys, shows how widespread and *co-related* the two factors were. "Q. About how many district agents did the Curtis Publishing Company have in 1910, approximately, if you know now? A. About 1700 or 1800. Q. Did they have that many as early as 1910? A. I think so. Q. You testified that most of these district agents, in 1910, were boys and retail dealers. Can you give any estimate of what percentage were boys and retail dealers? A. About 85 per cent."

This general plan seems to have been original with the Curtis Company, the proof being that "At that time there was no other publisher of magazines which circulated its magazines through local district agents supplied directly by the publisher and by the boys (p. 1341). It will thus be seen that in its novelty and success it was a new factor, within

its sphere, of developing a new, and not of operating an old, field of commerce.

Up to 1910 (p. 1341) the distributing district agents sold their publications direct to the boys only and retail news dealers were supplied by the American News Company. Shortly before that time, owing to business friction between the Curtis Company and the American News Company (see pp. 1344, 3217 and 3218) the district distributing agents were left free to deliver copies of the Saturday Evening Post to retailers and this arrangement (p. 1345) was later extended to the Ladies' Home Journal. Up to the year 1910, the Curtis Company's district agents wholesaled no other magazines than the Curtis Company's Post and Ladies' Home Journal, a business practice to which no one is shown to have objected as unfair business competition.

The expense of maintaining these sales through the distributing district agents and the boys at large, amounted in 1908 to over a quarter of a million dollars and 1909 to over $376,000.

In 1911, the Curtis Company acquired, as we have said, the Country Gentleman and distributed it through its distributing district agents and boys and through the American News Company in the same way, and from that time on, has continued to expend large sums for prizes, etc., among its distributing agents and the boys, approximately the following sums: 1913, $89,000 (p. 1368); 1914, $88,000 (p. 1367); 1915, $126,000 (p. 1366; 1916, $184,000 (p. 1365); 1917, $136,000 (p. 1366).

The personal character of the work of the local distributing agents and the personal relation of these boys to the Curtis Company and its local dis-

tributing agents was shown by the proofs. As a part of the boys' compensation, the Company paid the dues in the Y. M. C. A. of a large number of boys (p. 1385); these membership fees now amounting to $2500 a year (p. 1385).

A League of what is called Curtis Salesmen was formed among the boys, membership in which was dependent on their *standing* in their local school work and on their *efficiency* as salesmen, both of which features it was the *work* of the local distributing agent to oversee. The boys reaching the highest rank in this League were assured good salaried positions on leaving school and their high character and the success in training them is proved on the record by the fact that at the time the proofs were taken (p. 1385) there were 2000 applications on file from some of the best business concerns of the country, asking for these boys. The personal character of this work of the local distributing agents and the coöperation of the Company's traveling agents, in the organization of this League of the boys, and the time, patience and expenses expended in its formation, are fully set forth on the record (p. 3225) and show, beyond all question, that this widespread, novel and effective selling organization of distributing agents and boy salesmen is a part of the complainant's business, fairly and laboriously built up by it, and leaves no doubt that its morale, efficiency and good will was a business asset and in the distribution of magazines, of great value, and its continuance and its success was, in the main, bottomed on the undivided loyalty of the local distributing agents and on their continuing to remain distributing agents of the Curtis Company alone.

The proofs show that the compensation of these boys and the distributing district agents was fair, taking, as an example, of the five cents paid by a customer to the boy for a copy of the Saturday Evening Post, two cents went to the boy, one-half of one cent to the distributing agent, and two and a half cents went to the Curties Company for publishing and delivering the magazine to the district agent.

Indeed, the personal character of the relationship and the distributing agents as the prime element in the whole plan, is stated by Charles W. Eliot, late President of Harvard University, who says: "The method of the Curtis Publishing Company in enlisting a large number of boys who are still at school in selling its publications, and teaching them how to sell the journals to the advantage of the company and to their own profit, gives a useful example of coöperation betwen schools and industrial companies in the training of boys. It is a first-rate example of vocational training, given by a commercial company during the period of school life. The Curtis Publishing Company's method has proved successful in several important respects: First, it has provided the company with a large body of *effective young distributors* of its products; secondly, it has kept thousands of boys in school longer than they would otherwise have stayed there; thirdly, it has taught them thrift and accurate accounting—an invaluable lesson; fourthly, it has given many thousands of boys a knowledge of the art of selling journals which easily becomes available in many other businesses; fifthly, it places many boys in good situations on well-

grounded recommendations, when, being fit for larger service, they leave the employ of the Curtis Publishing Company. The Curtis method has thus been of great service not only to more than 50,000 boys but also to employers in a large variety of industries It should be clearly understood that boys who avail themselves energetically of the offers of the Curtis Publishing Company can still have half of their afternoons for play, and can earn by diligence out of school hours, not only their pocket money, but a considerable savings-bank deposit in the course of four or five years. The winning of this deposit is likely to affect beneficially the whole future career."

The proofs show (p. 1483) that 95 per cent of these boys sell only the publications of the Curtis Company and that in view of their school duties and in deference to the wishes of their parents, the sales for the Curtis Company is the limit of their selling power and if they sell other magazines they must cut down the Curtis sales (p. 2846).

The proofs show (p. 1396) that the Curtis Company expended in the maintenance of district agents and boys in the four years, 1914 to 1917, both inclusive, over five and a half million dollars, and they abundantly satisfy us that this method of distribution is an entity made up of the joint activity and personal coöperation of district distributing agents and boy distributors and their relationship to the Curtis Company, each one of the three being dependent upon the other two for the proper coöperating and interrelated distribution of the respondent's publications and promptly furnishing the same to the reading public and that this plan originated with, and was

built up by, the Curtis Company through years of patient effort and at great expense, and that it forms the basic, practical method of distributing and marketing the Curtis Company's publications and is a business asset of great value, and that the vital and basic element in this business is the undivided loyalty and personal interest and influence of the distributing agents.

After the success of this plan had been demonstrated by the work and money of the Curtis Company, it is to be noted as an evidence of business morality among the magazine publishers, that but two of the four hundred magazine publishers made any effort to take away from the Curtis Company the undivided services of its distributing agents. And it will be further noted this effort was involved in and became the subject of judicial consideration in a suit hereinafter referred to, between the Pictorial Review Company *vs.* Curtis Publishing Company, 225 Fed. Rep. 209. There the Court, in its opinion, held as to the relative conduct of those two competitors: "The defendant in insisting upon maintaining the integrity of its system, is not in my opinion guilty of unfair trade. On the contrary, the complainant, in attempting to avail itself of this system, is engaging in unfair trade. That it cannot build up a system of its own, if it desires to do so and will go to the trouble and expense, I do not believe. It is attempting here to secure a preliminary injunction to prevent the defendant from contracting with the latter's district agents not to market the Pictorial Review through boys and dealers. To grant such an injunction would break up what I think is a perfectly legitimate system for the promotion

of sales of the defendant's magazines, and would enable the complainant, without expense, to employ the organization built up and fostered by the defendant."

Turning then to the proofs in regard to the acts of the Curtis Company and these two competitors which form the basis of this proceeding, we note that in 1910 the Success Company, which published "The National Post Magazine," endeavored to make use of the Curtis organization. But from 1912 to 1917, the services of the boys in the organization described have been utilized solely by the Curtis Company. During that time a number of other magazines and periodicals had been wholesaled to retail dealers by some 366 of respondent's district distributing agents, out of a total of 1375. (Record, pp. 3221-3223.) This has been done with the understanding that no use should be made of the respondent's boy organization, for the sale of the periodicals of such publishers. The proofs further show that about 1917 the two magazine companies which published the five magazines referred to, undertook to avail themselves of this boy organization of the Curtis Company. One of these companies was the Pictorial Review Company, which published the Pictorial Review; the other the Crowell Publishing Company, which publishes four magazines, namely: Woman's Home Companion, American Magazine, Farm and Fireside and Every Week. These companies have built up a great business and great circulation of their magazines through the American News Company (p. 176) and by other means open to them, as to which reference is made in the testimony of Messrs. Beck and MacKinnon.

As we have seen, the Pictorial Company depended entirely in the matter of single copy sales on the Amer-

ican News Company and its facilities. Seeing this, they sought to secure the local distributing agents who are under contract with the Curtis Publishing Company, "in order to secure a wider and more efficient and better service and more circulation" (p. 108). The proofs show the commercial significance of this effort (p. 111) was that "if we could reach all of the wholesalers in the country—that is to say, if we could do business with all of them—I think the doubling of our *single copy* sales" (that is, a sale by boys) "would not be unreasonable to expect on "Every Week."

In addition to the effort to reach the distributing agents of the Curtis Company, the proofs show that efforts were made to reach the boys whom the distributing agents had. At first no objections were made by the Curtis Company, in a number of cases, to its district distributing agents handling these periodicals (p. 1471). "With 'Every Week,' as with 'Pictorial,' we granted permission in a number of early cases, until it developed that the methods in use were contemplated to be generally objectionable to us." These later-developed methods after February, 1917, are shown by the proofs (p. 1471) that "in the case of 'Every Week' we found that they were beginning to sell through boys" (p. 1472).

The letters of the Pictorial Company, which began about January 20, 1917, and were sent to the distributing agents of the Curtis Company, among other things, stated: "We are ready to supply you directly with such copies of 'Pictorial Review' as you can sell through boys. *** Your boys should be able to do a corking business." In the specific instructions sent out to give these Curtis distributing agents, they were directed by the Pictorial Review to "Get your boys busy

getting orders for regular monthly delivery." That the purpose was to undermine the sale of the Home Journal by the Curtis Company's boys is clearly indicated in circular dated November 28, 1917 (p. 2565) in which they said: "Maybe you have some newspaper or route boys whom you could get started with a monthly delivery by offering them this bonus in addition to their regular four cents." Thus, the testimony of Smith, of Washington City (p. 2205), is that an agent of the Pictorial Company came to his office and "wanted me to take some copies from the Washington News Company, and get my boys who were selling the 'Saturday Evening Post' and the 'Ladies' Home Journal' to try them out."

The proofs further show that it was to be done in an underhand manner, the witness stating: "Before I had a chance to refuse it, it was offered to me with the suggestion that I could get it in my sister-in-law's, or my wife's, or in the name of a couple of men who worked around the office." The proofs further show that Smith was a sales boy who had grown up with the Curtis Company sales agency, having started with that Company when he was eight years old.

The proofs show that Thomas (p. 2194) had about 350 boys selling for him and that he had received about 200 from the Curtis people when the work was turned over to him. That he had meetings with the boys at the Y. M. C. A. and the boys' homes. Thomas testified (p. 2193) that Korb asked him to handle the Pictorial. "He said he would accept; if the boys wanted any copies, to let them have them." Thomas had been brought from Norfolk and Newport News, where he had been working for the Curtis Company, to Baltimore, and had taken charge of their business there. It

is also to be noted that while Korb was endeavoring to get the use of these 350 boys through Thomas, the latter was not the only wholesaler in Baltimore. That Cann, Wilson and Grape were wholesalers who handled the publications of other magazine publishers, and who, it is fair to conclude, were all competitors of the Curtis Company, could get their service.

The Curtis Company's district agent, Kimbrough, at Richmond, was also approached. He had been connected with the Curtis Company for seven years; had grown up as one of their boy salesmen; had worked into the position of district agent and handled no other magazines. There were other wholesalers in Richmond, the proofs show (p. 220), namely, the Richmond News Company and Levy & Company, but Kimbrough was asked to handle the Pictorial. "They said they wanted to get away from the American News Company and would turn their store business over to me if I would permit the sales with the boys and I said I would refer the matter to the Curtis Publishing Company." "Q. Those are the only boys you have? A. Yes, sir. Q. You distribute magazines through these boys? A. Yes, sir. Curtis publications, and they handle only Curtis publications as far as I know." The suggestion was likewise made to him that he could take an agency for the Pictorial in somebody else's name.

The proofs show these boys form a dependable body, that they had their own permanent customers, and they also show the personal work of Kimbrough. In these respects the testimony of Kimbrough was: "Q. Did you have any talk with Mr. Korb or did Mr. Korb say anything to you about other Curtis agents handling 'Pictorial Review'? A. Yes; he said that there was no objection on the part of the company, because Smith

at Washington, and Schafer at Pittsburgh, were handling the 'Pictorial Review.' Q. Was anything said about your brother? A. He did suggest that I could do that. Q. What do you mean by 'could do that'? A. That I could have taken the agency in somebody else's name. Q. How many boys have you? A. Well, it runs on an average of around one hundred. Q. Are they a pretty permanent body? A. They keep at a pretty permanent figure of about one hundred. I have one boy who was selling before I was district agent, and he is still selling, and others come and go, and last two or three years or a few weeks, and that is about the way it works out. Q. They have permanent customers or routes? A. Yes, sir. Q. What kind of boys are they—where do you get them? A. Most of them from school lists and advertisements inserted in the papers, asking for nice, clean boys. Q. Most of them are schoolboys? A. Yes, sir. Q. Have you done any work instructing them or holding meetings with them? A. Yes, sir; I have held meetings with them, and often they come and ask me where they can get customers, and I tell them the best I know how. Q. And do you do some Y. M. C. A. work? A. We have meetings with the Y. M. C. A. and the Y. M. C. A. has coöperated with us and loaned us their swimming pool."

It appears from the testimony that at the time Kimbrough was thus asked to take these agencies and have the boys do the selling, Levy was the main wholesaler in Richmond at that time; the seeming object not being to get a dealer to handle their magazines but to get a Curtis distributing agent who could use the Curtis boys.

The testimony in regard to the situation at Rochester, New York, is also indicative of the real purpose the Pictorial Company had in view. In that city, the

wholesalers were the Rochester News Company, which was a branch of the American News Company, and the Manson News Agency. They were old, well-established concerns.

Lazarus, the district distributing agent of the Curtis Company, had been such for fourteen years and sold no magazines except the Curtis publications. He had about 220 boys and they had their own customers. The value of the personal character and the personal work of a distributing agent as used in the Curtis plan is shown in the testimony of Lazarus: "Q. How long have you had your Curtis contract? A. About thirteen or fourteen years. Q. You sell your papers, I presume, to dealers and to boys? A. To dealers and to boys, yes, sir. Q. How many boys have you? A. I have about 220 boys that sell the 'Posts' and the 'Journals', and about 30 to 35 corner boys. Q. Newsboys? A. Newsboys sell Curtis magazines and papers, and so forth. Q. Of the 220, do any of them do any selling other than Curtis publications A. No, sir. Q. They have their own customers? A. Own customers, yes. Q. What kind of boys are these? A. They are all good class of boys. Their fathers are lawyers, doctors and business people. Q. You went out and got these boys? A. Yes, sir, I went out and got those boys. Q. How did you get them? A. I have different ways of getting boys—boys that sell for me. They bring them to me, and then again I am in a business place where there are 340 offices in it, all lawyers, doctors, and all classes of people, and their sons sell for me. They tell their boys to sell. Once in a while we would be offered different ways of getting them, through newspapers; Curtis has a way of putting it in the papers, you know, getting boys, and it is easy to get boys anyway. Q.

You never have any trouble? A. Never have trouble getting boys at all: no, sir. Q. Do you work with the Curtis Company, with their own men there in getting them and keeping them efficient? A. Yes, sir; I do. Q. And you report on these boys every week, the results of their efforts, do you not? A. Every week; yes, sir. Q. Are any of these boys members of the Curtis League? A. Yes, sir; well, we have about four Master Salesmen and about three league salesmen. Q. Any plain League members? A. Yes, sir. Q. Have you got any Expert Salesmen of the middle class? A. We have got some, I think. I am not sure. I think I have. Q. If they sell enough papers, they get advanced in rank in the League? A. Yes, sir; get advanced in rank in the League. Q. Do you have any contact with their school-teachers? A. Yes, sir; I do. Q. What do you do? A. I know them all personally. They are glad to send boys to me. Q. You work with the school-teachers in getting boys? A. Yes, sir; work with the school-teachers in getting boys. Then, we also have about ten boys that I guess the Curtis Publishing Company paid their way through the Y. M. C. A. Q. And you work with the Y. M. C. A. there? A. Yes, sir. Q. Do you know whether the Curtis Company has done that? A. Yes, sir."

The same proposition was made to him that was made to the others, stating that they wanted him to handle the publications through the boys (p. 1605). Lazarus testified that he sells 7000 Posts and 4500 Ladies' Home Journals, that "he don't handle other business because Curtis magazines keep him busy," and that he gives it all his time.

In Louisville, Kentucky, the Heverin News Com-

pany was the large wholesaler. It was not a branch of the American News Company. It handled a large number of magazines and newspapers, and had been long in the business. Goodman had been the district distributing agent of the Curtis Company for only three years, and his business was exclusively for them. He distributed to 117 boys and to some 215 retail dealers. He testified that he had had the fullest coöperation of the Curtis Company in obtaining boys for his work, and that the Curtis Company was in personal correspondence with every one of them. That these boys were appointed by name by the Curtis Company. That they received prizes or bonuses from that Company, and printed matter. He testified that for every new boy he started in the work, he received from the Curtis Company one dollar. Goodman testified that a representative of the Crowell Publishing Company had endeavored to get him to sell their "Every Week" in Louisville. "One of the roadmen, he was trying to place 'Every Week' in Louisville. He approached me and I explained the situation that I did not care to handle it, and he finally asked me if I had any relative or any brother working for anybody in the newspaper business, and I told him I had a brother working in the Louisville post office, and he suggested I place the agency in his name. Q. In your brother's name? A. And have our Curtis boys sell it, and by doing so, the agency not being in my name, they would not find it out. Q. Now, the Crowell man, of course, wanted to do the same thing for the boys, too, did he not? A. He wanted the Curtis boys to sell 'Every Week.' Q. And thus reach the same customers that the wholesale dealer could not deliver to? A. No; 'Every Week' wanted to draw the benefit of the Curtis work. Q. I

know he wanted to get the benefit of the Curtis organization, but he was trying to reach these customers, was he not? A. He was trying to have the boys sell 'Every Week' to some of their 'Post' customers."

The substantial character of Goodman's magazine business is shown (p. 3169) by his sales of 4700 Posts a week, 2300 Journals and 750 Country Gentlemen.

Proofs in reference to Topeka, Kansas, clearly show that the boy organization was what the Crowell Company was after and not the general wholesaler. In Topeka, one Patterson was a wholesaler and is now handling fifteen magazines, Miss Goodrich handled the Curtis publications alone. The representatives of the Crowell Company came to Topeka four different times, endeavoring to induce her to take on his magazines and obtain the use of the Curtis boys. Miss Goodrich distributed the Curtis publications to 33 dealers and had 170 boys. She was the clerk of a church and took up the work with the boys as a vocational, altruistic work. She had parents' meetings once a month; meetings of boys of the Y. M. C. A.; had them organized in teams, and got in touch with their work in the schools. It was this organization that the Crowell agent wanted to avail himself of. Her testimony shows the personal nature of the work. "Q. You are intimate with a number of the parents of these boys? A. Yes; we have parents' meetings once a month. The *parents* are interested in what the plan is doing for the boys; in fact, the whole game with me is a vocational plan, anyhow, and what it is doing for the boy, and I am not only getting these boys but the parents and teachers at the schools. I had one high-school teacher who came to me and asked for view-points about salesmanship. Salesmanship is taught in the high school at home, and

the lesson that day was 'Selling Saturday Evening Posts.' I had another teacher who came and asked us what we could do for a boy who was late at school. I said that should not be, and I just told her to announce that a boy who reported late at school would not receive his copies until after school. She has spoken to me several times since and she said that boy has never been late since. Q. You are in this because of your great personal interest in this vocational work? A. I surely am. The agent said I have such a good organization it was not necessary to go farther and that he had a good proposition and would like to leave it with me. I said I could not take on the other publications without the consent of the Curtis Publishing Company and besides, I did not want to use the boy organization, because it was strictly a Curtis organization."

Miss Goodrich sold substantially 2000 Posts and 2000 Journals of each issue. The existence of another competent wholesaler in Topeka and the continued persistence of the Crowell Company in endeavoring to get the boy organization which Miss Goodrich, the Curtis distributing agent, had built up as a distinctly Curtis organization, shows that the boy organization was the crux and aim of the Crowell Company's efforts and the key to getting it was getting the distributing agent.

The testimony of Mrs. Sturdevant (p. 2863) shows very clearly the personal, altruistic, vocational character of the work of the boys in the Curtis organization; the personal work of the district distributing agent in building up the organization and of the Curtis Company in aiding in its upbuilding; and the desire of the competing company to avail itself of this boy

agency created by the Curtis Company. Mrs. Sturdevant was a district distributing agent in St. Louis, a city of such magnitude that obviously these competing companies could each get a competent wholesaler to distribute its magazines. In the face of this fact, an effort was made to induce Mrs. Sturdevant to give them the services of the boys of this Curtis organization. Her testimony shows that she gained her training under Curtis branch managers and as she said, she "learned the Curtis ideals and Curtis methods." She had 187 boys, all of whom were schoolboys. "I make it my business to know the parents of the boys in almost all cases, and know them personally, through the boy, either over the phone or by visiting at their homes." She kept in touch with the Boards of Schools and got information from them in regard to the boys' school standing "because the company required that the boys must make good marks in school." She had her boys subdivided into ten club organizations and at the meetings—"We have instruction on the selling features of the particular publication for that special week. We talk about the cover (of the Curtis publication), analyze it and discover whether the cover is a good selling feature; whether the cover will sell the copy, or whether we must refer to something inside."

The work of the district distributing agent with the boys is supplemented by the traveling representative of the Curtis Company. The proofs show (p. 2868): "Men came there at times for special efforts to get boys. Mr. McLarty, and last year Mr. Neer and Mr. Wehner, different Curtis representatives, came there. Then the Company makes very special efforts themselves, by making prize offers to the boys." As showing the personal character of the work in this organiza-

tion, the same witness testified: "Q. Now, during these six years' experience, during the time you were district agent, you had experience in watching these boys and instructing them? A. Yes. Q. Would you say that it had been beneficial to the boys as a whole? A. Oh, I know it. Q. Well, is there any particular respect that you could speak about in which it has benefited the boys? A. There is a boy (indicating picture) that I had from the time that he was a small boy, and this boy now is a bank examiner. * * * In the eighth grade, when he got about fourteen, his mother began to have trouble with him. She is a widowed mother. She appealed to me. So I took it up with Elmer, and got him to be a member of the League of Curtis Salesmen, promising him that if he would make certain sales he could do it. I kept him from quitting school and I kept him from losing his grades, because the *Company required that the boy must make good marks in school.* So I appealed to Elmer in that way, and through the principal of his school, Mr. R. L. Barton, and his mother and grandmother and Mr. Barton, we all worked together and showed him what it would mean to him to do this. And then when he got out of school he got a position in the Mechanics' American National Bank. I went to see Mr. Allen about three or four months afterward and he said: 'If you have any more boys like that, send them to me and I will take them.' * * * Very much benefited. I have a small boy who is the son of a widowed mother and he only sold five copies when he began, and was exceedingly stupid. I took it up with his mother. He could not keep account of his money at all. So she called me up and asked me if I thought Robert had better quit. I said, 'By all means no. Let me have

him three months more.' He could not make change; in fact, he very seldom got home with as much money as he started out with for a while, and his mother considered it a bad investment. But his mother and I together have been very busy and we co-operated with him. At the present time, at the last call his mother made on me in regard to it, she said: 'Robert is able now to go out and deliver all his copies'—he is taking ten copies now—'and to come in with the entire amount of cash, and he can make change.' He is only eight years old. Q. How old is Robert? A. Eight years old. And his mother has persisted in it, even at the loss of money, for the sake of principle and the boy, and she helps him keep his accounts every week. I had another boy, Douglas Crockwell. His father is in the wholesale leather business. And Douglas's father has had me teach his boy. He is not selling now on account of the condition of his health. And his father told me that he makes Douglas account for every cent of his profits. Every week they go over the book that the gentleman showed here. Q. Yes? A. And they figure his profit, and a certain amount is laid away for spending money and a certain amount is put aside in a permanent fund, and the father and Douglas attempt to account for every cent that is earned in prize money and bonuses and everything else."

We quote these things at length, not as showing the altruistic character of the organization, its worth to the boys, or as being a factor in the decision of this case, but simply to show that whatever the boy sales agency of the Curtis Company was, the distributing agents and their undivided service to the Curtis Company constituted the foundation stone of the whole selling structure.

Mrs. Sturdevant handled no other than the Curtis publications. She was urged to take on "Every Week" by the Crowell Company, but declined. She felt that the boys were doing better work by concentrating on one publication; that if she took on another publication, she would have to teach them the selling points of that publication, and that their parents did not want them to do so; that she placed no restrictions on the boys selling other magazines where their customers wanted them to furnish them; that she finds that about fifty Posts are as much as a boy ought to handle; that she had not encouraged them to sell more.

The personal character and morale of the district agents and the boys are illustrated by the testimony of these witnesses: "Q. Now, you are interested in your boys making all the money they can, aren't you? A. I am more interested in their learning to be men, business men. Q. Yes, I will agree in your case that is true; I think you are. A. Yes, sir. Q. And I think it is a very commendable thing. A. I do not emphasize the money as much as the other. Q. But I am asking you, would you like to have them make money too? A. Oh, yes; the money is the measure of success in a way."

Mrs. Sturdevant declined to take on other magazines saying: "Well, I believe in the boys concentrating on one thing. I believe in concentration. I think it pays me and pays the boys. I believe that to handle one line of goods and handle it well is better than to divide up."

Mrs. Whittelsey, another district agent in St. Louis, had 35 boys on her staff, and handled no other publications than the Curtis. She was also approached with a view to get the use of her organization of Curtis boys:

"In August, 1917, I was asked to—a man came to the house. He told me he was representing 'Pictorial Review,' and asked me if I would take it on. I said, no, that I was not interested and I hadn't the time. Well, he said it would not take any more time than I was devoting right now to it, that I had the organization and could do it while I was distributing the other papers. Q. Did he mention the character of your organization in any way? A. Yes. He said they were a fine class of boys and they could sell the papers while they were selling the other papers."

The testimony shows that the effort to get the distributing district agents' boys of this Curtis organization was carried out even in small communities. McNerney was a miner at Goldfield, Colorado, and there was a wholesale news company and a branch of the American News Company in that district, which wholesaled every magazine that came into it except Curtis', which was the only one McNerney handled. He had a small organization of boys which he had built up and trained with the help of the Curtis Company, through their prizes and instructions. The personal character of the organization, distributing agent and boys, and its relation to the Curtis Company, is shown by his testimony: "Q. How did you come to sell Curtis magazines? A. Well, I was going to school and needed a little spending money, and I knew the district agent in Cripple Creek and he thought he would give me a trial and started me out with twenty Posts. Q. Did he give them to you or sell them to you? A. He sold them to me. Q. Twenty Posts a week, A. That was the first week. Q. And when you bought those twenty Posts, and started to sell them did you know you were a Curtis boy? A. Yes, sir. Q. How did you know that? A. Because he told me."

The testimony of Nelson, district agent at Omaha, shows clearly that the object in view was to get hold of the Curtis schoolboy organization. In that city, both the American News Company and McLaughlin, a wholesaler, handled magazines. Nelson had 135 boys and handled nothing but the Curtis publications, which took up his entire time. The proofs show that his boys were schoolboys; that the traveling representatives of the Curtis Company had aided him in instructing them and taking the general supervision of their work; that the boys had received special encouragement from the Curtis Company. "I have one boy that won a trip for him and his mother to Washington for the inauguration of President Wilson, and also at the same time won a pony and cart and harness." That other boys had won smaller amounts and he, himself, had obtained bonuses on account of the work done as distributing agent, the largest being a check for $500.00, and that during the sixteen years of his connection with the Curtis work, he had earned bonuses approximating $2000. He was urged to take up "Every Week" (p. 2611). "The substance of their interview with me was that they wanted to get in with the boy organization, which I would not sanction, and that seemed to be about all there was to it."

The thoroughness with which this work of obtaining the use of the Curtis organization of boys was carried on, is evidenced by the testimony of Dewey, a sixteen-year-old schoolboy, who, in addition to his school work, had ten boys selling Posts, the contract being carried in his father's name. The proofs show that the Crowell Company visited him but the witness declined to handle the magazines because (p. 2837)

they "were in direct competition with the Curtis magazines, and I did not want to work them together."

The testimony of Alexander McLean is very suggestive. His son started out as a boy of twelve years of age, to sell the Curtis publications. He made such a success of it that they gave him a certain district and after he had had that for four or five years, the Company proposed to McLean to take the entire North Side in connection with his son. The father gives an account of the training the son had from the Curtis Company in his work. He says: "The most beneficial thing that ever happened to him. It has made a business man of him. The boy is now worth, as a boy twenty-two years old, he is worth probably $10,000. He has made all of that with the Curtis publications, with the investments he has made of that money. And then he has got 375 boys; he is making business men the same way, practically out of all of them. They save their money. And the boy that don't save his money, he is no good at all. He might just as well turn him out. If the mother and the father don't take of him, or both of them—It is the best business training for the child that has ever been put before the public, I don't care what he is." * * * "He is worth probably $10,000 himself. Now he has made that off of the Curtis people and the investment he has made of the money he has made off of that. In other words, it has made a business man of him. I will take his word—it is personal, of course, it is my son—it has made a business man of him, that I will put him against any business man in the City of Chicago. That is what it has done for him. Q. You attribute that to his training as a 'Post' boy? A. Yes, sir; the training that they have given, and what they are doing right now with every Curtis boy they have

got. That is what it has done for them, always has done for them and will do with them. Q. What is it they are doing now with respect to the Curtis boys you have now? They give them free copies to start with. They give them all the encouragement they can in the way of teaching them how to sell goods and approach men, and go out and teach them how to save their money and what to do with their money. It is nothing but business training. It is not a little, quibbling business, either. The boys come to our place and they buy them and they sell them, just like they would in any other business. It is just as big business for these boys as Marshall Field's business is for him, and done the same way. The Curtis people furnish little books, and I have got one right here (indicating). It is as simple a set of books as you can usually find—teaches them how to keep books. These little children, ten and fourteen, are taught just as well how to keep their accounts, just as well as Marshall Field's and the First National Bank's, or anybody else's, and the Curtis people have been doing that for years, as I know positively. Q. And these boys are also instructed right along in the proper methods of selling? A. They certainly are. Q. And in keeping their accounts? A. They certainly are. Q. And approaching— A. Approaching people. Q. —prospective customers? A. Yes, sir. Q. The merits of the article, and so on? A. These little, bashful boys will start that business and it makes them self-assertive; they can put a proposition to a man just as well as a man can, and sometimes better. I will take these boys that have been trained under these Curtis Publishing Company systems of training, and I will put them against men in our stores, and find them better, and we have 350 boys. Q. What is the class

of the 350 boys? A. They are the best class that you can get, mostly scholoboys, naturally. They devote their half day, and one day, and maybe two days to selling the 'Post'. That is the right kind of a boy; if he is drawing fifty he will stick to it until he sells them. If he is the wrong kind of a boy he will bring most of them back. That is the kind of a boy we try to push along and teach him how to do it."

The proofs show that McLean and his son had 350 boys in their organization. While they allowed their boys to sell other publications occasionally, they did not encourage them for the reason that a divided allegiance would destroy the efficiency of the organization. In that regard McLean testifies (p. 2846); "As a business proposition, you cannot do two things and do them practically alike. You are going to neglect one or the other. If they sell the Curtis Publishing Company's things and somebody else's, they are going to neglect one or the other."

From these proofs on the subject-matter of which the Commission made no findings whatever, it appears by the undisputed testimony that the Curtis Company through a series of years, at large expense and by the creation of personal relations, had built up both a distributing and a selling organization that was efficient, personal in character, and that was—substantially—engaged in distributing and selling exclusively the Curtis Company's publications. That with a view to having this organization cease being the exclusive agents of the Curtis Company and with a view to enlisting the schoolboy salesmen of the Curtis organization, the Pictorial Company and the Crowell Company began and carried on a widespread and systematic campaign, with the object of obtaining the service primarily of the district

distributing agents and secondarily of the local boy salesmen of the Curtis Company. The proofs show that in most localities where this attempt to get the distributing district agents of the Curtis Company to handle their publications was made, there were other wholesale distributors already employed in distributing other magazines, and through whom these two companies could have distributed their own. That the proof, by those experienced in getting these periodicals —and there is no proof to the contrary—is that this boy organization is composed almost wholly of schoolboys, that the time at their disposal and their capacity to sell is limited, and that the ordinary limit of a boy's selling capacity is about fifty magazines. That if the boy undertook to sell other publications it would result in diminishing his sales of the Curtis publications, as these two firms are in competition with the Curtis Company, and the handling of the two publications by the same boy would destroy the morale and efficiency of the Curtis boy organization. Such being the proven and undisputed facts, and the commercial gain to these two competing companies if they had succeeded in their plan, being to break down an efficient selling organization which the Curtis Company had, through a long term of years, at great expense and with much effort built up, the crucial question arises, Was the insertion by the Curtis Company in its contract with its distributing agents that without the written consent of the Curtis Company its distributing district agents "will not * * * act as agent for or supply at wholesale rates any periodicals other than those published by the pubisher"—evidence of unfair competition in business —or, stated in the common business thought of those in that branch of commerce, Is it evidence of unfair

business in magazine publishing to have an exclusive distributing agent? And, indeed, the question of unfair business is even narrower when the test of unfair business is applied to what was actually done in this case, for, while the restrictive wording of the contract was broad in scope and covered all magazines and all publishers, yet in its practical enforcement it was only enforced against these two competitive firms, and was not enforced against some four hundred other publishers and magazines who used the services of such agents in a fair commercial way and did nothing to undermine the loyalty, efficiency and personal relation of these exclusive agents to their principal.

Having thus considered the general situation which led to the making of these contracts, and without an understanding of environment and the causes which led to the making of a contract, there can be no just construction of a contract, let us now turn to the question of the violation of the Clayton Act.

In this regard, we note that paragraph three of the Commission's findings, finds "The defendant has made sales of its magazines to, or entered into contracts for, the *sale of the same* with certain persons, partnerships, or corporations, by the terms of which sales, or contracts for such sales, such persons, partnerships or corporations have agreed among other things, not to "act as agents for or supply at wholesale rates, and periodicals other than those published by the Publisher"—the respondent herein—without the written consent of "such publisher," was addressed to the Clayton Act. That act provides that it should be unlawful for one engaged in commerce "to lease or make a sale on contract for sale of goods, etc. * * * on the condition, agreement or understanding that the lessee or

purchaser thereof shall not use or deal in the goods, etc. * * * of a competitor of the lessor or seller," etc.

Seeing, then, that a lease or sale is the thing forbidden by the Clayton Act, that in this case the alleged sale was made by written contract and that this written contract of sale was the unlawful contract which the Commission forbade the Curtis Company to enforce, it is apparent that the first and basic question in the case must be directed to an examination of this written contract and a determining whether it is one for the sale of goods, etc., for if it is not for a sale, the requirements of the Clayton Act, namely, "a sale or contract of sale," do not appear in this written contract, and therefore no sale being shown in the record, it is the duty of the reviewing Court to vacate an order to desist from violating the Clayton Act. So far, therefore, as the Clayton Act is concerned, the questions involved in the present case are: First: Is the Clayton Act limited to sales or contract for sales of goods; and second, was the present contract one of sale?

The question of sale being the significant and controlling factor in the third finding, and that being determined, our next question would concern the second finding, which is the same, in substance, as the third finding, with the additional element that such written contract was alleged to be in the alternative, either for sale or *distribution;* and the next question, therefore, would be: Does the making and enforcement of the foregoing contract, whether it be a contract of sale or distribution, constitute unfair competition in business?

Turning to the first question, let us determine whether the quoted clause of the Clayton Act is limited

to sales or contracts for sales. The only answer to this is the Act itself. Its words are "To lease or make a sale or contract for sale." It makes unlawful, conditions, agreements or understandings "that the lessees or purchasers thereof shall not use or deal in the goods * * * of a competitor or competitors of the lessor or seller." The words "lease," "sale," "contract for sale," "lessee" and "purchaser," being the words used and no other relation than lease and sale being mentioned, there is no expressed purpose in the clause quoted to make it cover any other subject than leases, sales or contracts for sales and to embrace no other persons than lessees and purchasers. The words are so clear they require no construction, and to needlessly construe in order to broaden the scope of the statute, whether done by the Trade Commission in administering, or by this Court in supervising the administration of the statute, would be for either or both such agencies to write into the statute what Congress has not expressly written. Not only has no ground been shown for contending that by necessary implication, the statute covered other subjects than leases, sales, contracts for sales, or other persons than lessees and purchasers, but the Supreme Court has in 243 U. S. 518, quoted below, indicated its view that the clause in question was passed to meet a clearly defined controversy which concerned leases and sales. The case of *Henry* vs. *Dick Co.*, 224 U. S. 1, involved the sale of a patented machine, and the decision upheld a sales condition that other than supplies made by the seller should not be used in its operation by the buyer. Such being the adjudged law of the land, the Supreme Court, in *Motion Picture case* vs. *Universal Film*, 243 U. S. 518, not only overruled that case but changed the decided

law, saying: "It is obvious that the conclusions arrived at in this opinion are such that the decision in *Henry* vs. *Dick Co.*, 224 U. S. 1, must be regarded as overruled"; but in doing so, that Court suggested, as we have said, its view that Congress, in passing the quoted section of the Clayton Act, had done so in order to meet the decision in *Henry* vs. *Dick Co., supra,* the opinion stating: "We are confirmed in the conclusion which we are announcing by the fact that since the decision of *Henry* vs. *Dick Co.*, 224 U. S. 1, the Congress of the United States, the source of all rights under patents, as if in response to that decision, has enacted a law making it unlawful for any person engaged in interstate commerce "to lease or make a sale or contract for sale of goods * * * machinery, supplies or other commodities, *whether patented or unpatented,* for use, consumption or resale * * * or fix a price charged therefor * * * on the condition, agreement or understanding that the lessee or purchaser thereof shall not use * * * the goods * * * machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce. 38 Stat. 730." And in that connection, it will be noted that in the dissenting opinion in *Henry* vs. *Dick Co.* (see page 50), the Chief Justice, with two Justices concurring, suggested the very congressional action which, we submit, was afterwards embodied in the Clayton Act, stating that their dissent would "serve to make it clear that if evils arise their continuance will not be caused by the interpretation now given to the statute, but will result

from the inaction of the legislative department in failing to amend the statute so as to avoid such evils." That, shortly after this decision was rendered, Congress passed the clause in question, gives additional weight to the view that Congress, "as if in response to that decision, has enacted a law making it unlawful for any person engaged in interstate commerce 'to lease or make a sale or contract for sale of goods, etc.' "

Seeing, then, that the interstate commerce acts made unlawful by the Clayton Act, were limited to the *lease* and *sale* of goods, we turn to the second question, namely: Did the present contract "lease or make a sale or contract for the sale of goods?" We say "present contract," for as that contract is the one now used and whose future use is the practical commercial factor involved, we pass by all the preceding contracts and confine ourselves to the one on which the Curtis Company stands as the assertion of its lawful right to contract with its distributing agents. Turning, then, to this present contract of the Curtis Company, which is "Exhibit D" of its Answer, and the pertinent parts of which are printed in the margin,* we note first, that

*"To appoint the said Party of the Second Part as District Agent—

"2. To supply the District Agent with copies of The Saturday Evening Post and of The Country Gentleman at two and one-half cents (2½¢) each, and of The Ladies' Home Journal at nine and three-quarters cents (9¾¢) each, transportation charges prepaid, provided that if the District Agent fail to prove himself entitled to the wholesale rates by wholesaling each publication to sub-agents, and by sending on time, the required fully itemized, sub-agents' sales reports, or if the District Agent fail to maintain a net sale of his quota of *any one* publication, as required by Clause 8, the Publishers may then charge three cents a copy for The Saturday Evening Post and for The Country Gentleman and eleven cents a copy for The Ladies' Home Journal, or may, at their option, terminate the contract after thirty days' notice and appropriate the cash security;

"3. To give credit to the District Agent, as the price paid, for unsold copies returned *in accordance with the regulations governing returns, as stated on the order-blanks last issued by the Company;*

"8. To sell at least —— copies of each issue of The Saturday Evening Post, at least —— copies of each issue of The Ladies' Home Journal, and at least —— copies of each issue of The Country Gentleman;

the agreement, which is entitled a "District Agency Agreement," is in form and verbiage an appointment by a publisher of an agent, and an agent for limited territory and for a mutually optional time, for the purpose of (*a*) selling, and (*b*) distributing its magazines. Now, there are no words in the contract which purport or contemplate the sale of such magazines, and there is express provision if a (*a*) sale, or a (*b*) distribution, to third parties, is not effected, the magazines consigned are to be returned to the publisher. Indeed, the nature of the transaction, the necessary haste to get the magazines into the hands of the boys at once, shows of itself that there was no reason for transferring title by sale. It was not the handling of commodities of which sales would naturally be made. It was a contract for distributing and speeding up deliveries of an article whose whole value depended on the haste with which it passed from the agent's possession. Confirming these statements, we note that in clause one, "appoint the said second party as District Agent for The Saturday Evening Post," etc., are words aptly used in constituting an agency, viz: "appoint,"

"9. To supply sub-agents, both boys and dealers, with The Saturday Evening Post and The Country Gentleman at Three Cents a copy for re-sale at Five Cents a Copy, and with The Ladies' Home Journal at Eleven Cents a copy for re-sale at Fifteen Cents a copy, and to make deliveries early on the morning of the sale date;

"10. To refrain from displaying, delivering or selling any copies to boys, dealers or retail customers BEFORE the authorized sale date, as specified on the printed order-blank furnished by the Publishers;

"11. To refrain from selling any copies in any territory known to be controlled by another agent-under-contract;

"13. To refrain hereafter from wholesaling to boys or dealers (and from attempting to influence any Curtis Agent to sell) any periodicals other than those published by The Curtis Publishing Company, and to refrain from furnishing any other publisher or his agent with the names and addresses of any Curtis Agents, without first obtaining the approval of the Publishers;

"16. To permit the Publishers to retain, throughout the life of this agreement, possession of the $—— herewith remitted by the District Agent as cash security for his performance of his several obligations hereunder."

and of restricted territory "District Agent." We note that clause 3 provides for the return and credit at consignment prices, of unsold copies, and that clause 5 provides for the payment of interest at five per cent on money deposit, made by the agent, as security for the magazines consigned. As to the agent making sales of the magazine, clause 8 obligates him to sell a certain number of copies of the magazine, and clause 9 binds him to deliver the magazine to dealers and boys "early on the morning of the sale date," and at certain specified prices. We also note that, by clause 10 the agent binds himself not to display, distribute or sell any of the magazines before an authorized sale date, and by clause 11, not to sell any copies in territory controlled by another agent. All of these and other details that might be cited, evidence that the relation created by this contract and, by its expressed terms meant to be created, was one of agency, and that there is an entire absence in the contract of any terms or words usual or requisite to effecting or evidencing a sale, as well as of circumstances inviting or necessitating a sale.

We have not overlooked the fact that the contract provides for the maintenance by the agent in the hands of the publisher, of an advance sum of money sufficient to indemnify the publisher for all magazines forwarded. But in our judgment, this deposit cannot, in view of the right of return, be regarded as a payment but rather as an indemnity to secure payment for all copies the agent does not return. It is a fund on which the publisher is obliged to pay a substantial interest rate. It is an indemnity, and the fact that such indemnity is in money instead of a bond or obligation to pay money, is of no significance, and the crucial question still remains: Is the contract which it indemnifies one

of sale to a buyer or consignment to an agent, for subsequent sales or distribution? It is, moreover, an indemnity fund for which the Curtis Company is bound to account to the agent. Nor is the accounting price of the magazines even fixed by the contract. It depends on the future efficiency of the agent. Nor is the fact to be overlooked that the contract taken as a whole, could not be satisfied by the mere fact of sale to a buyer, for, if the transaction ended with a sale by the publisher, the whole spirit and purpose of the contract would be lost, which is that the distributing agent should distribute to the boys and the boys distribute to their personal customers. The subject of the contract is a large quantity of magazines, and the object of the contract is not to vest ownership of them in the other party to the contract, but to pass those magazines by the use of other agencies into the hands of the public. And the object of placing these magazines in the hands of the public, is not alone to get from the real buyer of the magazine its comparatively small price, but by placing it in the hands of a vast number of buyers to thereby enable the publisher to obtain that advertising patronage which is the financial mainstay of all such periodical publications. It has, therefore, seemed to us that the unique character of the subject-matter of this contract, the object the publisher had in view, and the phraseology, conditions and obligation of this contract, unite to make the contract one of consignment to a distributing agent who was furthering the business of his principals, and not one of a buyer who thereby acquires title for his own individual purposes. Such being the case, we hold the Commission erred in the legal construction of this contract, and therefore had no proof before it to find, as it did in its third finding,

that "the respondent has made *sales* of its magazines to, or entered into contract for the *sale* of the same, with certain persons," etc., and therefore, its legal conclusion from such findings, viz.: "that the acts and conduct set forth in paragraph 3 of said findings, are, under the circumstances therein set forth, in violation of the provisions of Section 3" of the Clayton Act, was in error, as was also the part of its decree which enforced such conclusion.

Having thus found that the distributive agency contract was not a violation of the Clayton Act, we next turn to the third question, namely: Does the making and enforcing of that contract, whether it be a contract of sale or of distribution, constitute unfair competition in business? What is unfair competition in business? Now, while Congress has enacted, as we have seen, "that unfair methods of competition in commerce are declared unlawful," it has not defined unfair competition or specified what shall constitute unfair competition. From this absence of definition, it is reasonable to infer that it was in the mind of Congress that, as unfair competition had long been a subject of judicial scrutiny, determination, and was involved in remedial suits at law for damages and of injunctive suits in equity, to prevent continuance, the definition and ascertainment of what constituted unfair competition was a legal question which the law could determine. Indeed, in the nature of things, it was impossible to describe and define in advance just what constituted unfair competition, and in the final analysis it became a question of law, after the facts were ascertained, whether such facts constitute unfair competition in business, for the test of fairness, as of fraud, is the application by the law of moral standards to the actions of men. While

it was the exclusive right of a jury in a case at law to find the facts in any given case, it still remained the duty of the trial judge before entering judgment to decide whether from those facts the injury of unfair competition in business could be lawfully inferred. So also, when the case was in equity, while it was the province of the judge to find the facts, it also was his duty and as well the duty of a reviewing court, to decide whether upon those facts so found, the injury of unfair competition in business existed. Presumably, with this recognized existing jurisdiction of Federal Courts over cases of unfair business competition in mind, Congress passed the Trade Commission Act, the pertinent parts of which we have heretofore noted in the margin. Such, then, being the existing and by the Act unchanged jurisdiction of such courts in reference to questions of unfair competition between business competitors generally, and that jurisdiction being exercised on well-established legal principles, it follows that when Congress invoked an exercise of supervisory power on the part of such courts over the action of the Trade Commission, and enacted that this supervisory power should be exercised before the orders of the Trade Commission could be enforced, it would seem to follow that the supervisory powers which the Court was meant and intended to exercise, were the usual powers exercised in the usual way by those courts when exercising their power to review, and while the Act provided that the findings of fact made by the Commission were final and conclusive, it still remained the duty of the supervising Court to determine the same legal questions which a supervising court had in reviewing actions of the trial court, namely, whether under all the facts found by the Trade Commission a case of unfair

business competition was established. That Congress meant to invoke some supervisory power precedent to the Trade Commission enforcing its orders, is apparent, and unless that invoked jurisdiction meant in effect to submit to the judgment of the Circuit Court of Appeals the legal question whether the facts found by the Commission established that the competition was by the judgment of law unfair, and if that supervisory power did not charge the Circuit Court of Appeals with the legal duty of judicially deciding whether the facts found were such as warranted injunctive relief by the Commission, we may well ask the question, what supervisory power did Congress intend should be exercised by the Courts of Appeals? For, if such supervisory power, which is one of substance and judicial in its nature, is not to be exercised by that Court, then it is manifest that the supervisory power which Congress invoked was one of mere shadow and not of substance. To our mind, the situation is wholly different from that of the Interstate Commerce Commission. There the basic question is the fixation of rates, which is a question of business discretion and in no sense a legal, judicial or moral one. Manifestly, Congress did not mean to confer upon the Trade Commission the power to grant injunctions in cases of business competition, where courts would not be justified in granting injunctions. Indeed, when Congress in invoking such reviewing and supervisory power, said "the Court * * * shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter *upon the pleadings, testimony and proceedings* set forth in such transcript, a decree affirming, modifying or setting aside the order of the Commission," it was using language which aptly described the

customary jurisdiction and power theretofore exercised by Circuit Courts of Appeals in reviewing cases of alleged unfair business competition.

Such, then, being the supervisory jurisdiction conferred on this Court, we turn to the question before us and inquire whether the record as a whole, which includes not only the findings of fact made by the Commission, but also the proofs in regard to which the Commission made no findings, discloses a case of unfair business competition on the part of the Curtis Company, which warrants a decree which in effect enjoins them from successfully continuing a distributing and selling agency they have utilized for years. Before taking up that question, we note the fact that while this proceeding was pending before the Trade Commission, the Pictorial Review Company invoked the jurisdiction of the United States District Court for the Southern District of New York, by a Bill filed against the Curtis Publishing Company, to enjoin unfair business competition. That Court, in an opinion reported at 255 Fed. Rep., 208, said: "What the complainant evidently desires is, not merely to sell to these wholesalers, which it can do already in cases where the wholesalers have a retails trade, and to the extent of that retail trade, but to avail itself of the organization of the Curtis boys, built up by the ingenuity, labor and capital of the defendant. The defendant in insisting upon maintaining the integrity of the system, is not, in my opinion, guilty of unfair trade. On the contrary, the complainant, in attempting to avail itself of this system, is engaging in unfair trade. That it cannot build up a system of its own, if it desires to do so and will go to the trouble and expense, I do not believe. It is attempting here to secure a preliminary injunction

to prevent the defendant from contracting with the latter's district agents not to market the Pictorial Review through boys and dealers. To grant such an injunction would break up what I think is a perfectly legitimate system for the promotion of sales of the defendant's magazines, and would enable the complainant, without expense, to employ the organization built up and fostered by the defendant."

An examination of that case shows that upon facts which in nowise controverted the fact findings of the Commission, hertofore set forth, that Court held the Curtis Company's course did not constitute unfair business competition. We see no reason to differ from the conclusion reached by that Court and, unappealed from as it is, it judicially and finally adjudged that as between these companies the Curtis Company has not been guilty of unfair competition in business. And such matter being as between these parties finally adjudged, two things follow: First, the competition of the Curtis Company is adjuged not unfair; and second, no court could thereafter in a suit between these parties, issue an injunction to enjoin such competition. Of course, the decree in that case where private rights only are concerned, binds only the parties, and can in no way affect the jurisdiction of the Trade Commission; but the fact that while the business relations of these parties were under review by the Commission one of the parties invoked, as it had a right to do, the jurisdiction of a court in equity and sought to enjoin such alleged unfair competition, and that Court, after hearings, held that the defendant's business operations did not constitute unfair competition, but, on the contrary, the complainant's actions did, and the Trade Commission thereafter, upon similar facts shown to it, held

the Curtis Company was guilty of unfair competition in business, the mere existence of such an anomalous and contradictory holding of legal conclusion upon the same general facts, in and of itself suggests that in the exercise of our reviewing, supervisory, jurisdiction, it is for us to decide whether the legal question before the Trade Commission was rightly decided by it, and in deciding that question we may give due consideration to the reasoning and opinion of the Court referred to, with a view to avoiding conflicting holdings under substantially similar states of fact.

But before taking up that question, let us make it clear that we are not violating, or in any way ignoring, the statutory limitation on our supervisory reviewing jurisdiction, namely, "that the finding of facts, if supported by testimony, shall be conclusive." The findings of fact by the Trade Commission we have quoted in full. Those findings we accept as established, and they are the sole foundation on which the order of the Commission is bottomed: "From the foregoing findings, the Commission concludes," is its own statement.

But the case did not turn on this restricted phase, which, in our judgment, totally ignores the real situation and makes no finding on those facts, which are really determinative of the question whether the competition of the Curtis Company was unfair business competition. That real situation, as we have seen from the uncontradicted proof, among other features, consists of: First, the creation through years, with great effort and large expense, of the Curtis Company's schoolboy selling organization; second, that the district distributing agents constitute the control, morale, recruiting and existence of the schooboy selling organization; and third, the efforts of two competitors to

appropriate that selling agency to themselves, with the undisputed consequence of undermining its morale and distroying its efficiency; and lastly, that the purpose of the Curtis Company in putting in its contract the clauses objected to, was not to interfere with commerce, or with the circulation of the four hundred magazines, but solely to thwart the unfair plan of two unfair competitors who sought to undermine the undivided loyalty of the Curtis distributing district agents and through them disrupting the Curtis schoolboy organizations.

Now, it is very apparent that where the supervisory review by the Circuit Court of Appeals which Congress invoked, provided that that Court "shall have power to make and enter *upon the pleadings, testimony and proceedings* set forth in such transcript, a decree," it is the province and indeed the duty of the reviewing court, to consider not merely the findings of the Commission but the whole record, the whole proofs and the whole proceeding, and to say first, whether in view of all the proofs, the limited facts found by the Commission really passed on the pertinent and decisive facts, and so warranted an injunction; and second, if such limited facts do not reach the merits and do not alone legally justify and warrant a decree of unfair competition and injunctive relief, then since Congress has enacted that the Circuit Courts "shall make and enter *upon the pleadings, testimony and proceedings* set forth in such transcript, a decree affirming, modifying or setting aside the order of the Commission," it is quite clear that it is not only the province but the duty of the Circuit Court of Appeals and indeed the expressed purpose of Congress that such reviewing Court should itself examine the pleadings, the entire testimony and proceedings, and upon such inclusive examination, determine

whether the facts found by the Commission and the proofs on which the Commission made no findings and which the Court, in the absence of such finding, itself finds and determines, legally established a case of unfair business competition by the Curtis Company. Taking, therefore, the record, proofs and pleadings as a whole, we hold as a legal and judicial conclusion that the proofs are not such as can support a judgment or decree of unfair competition on the part of the Curtis Company toward the Pictorial Company and the Crowell Company. That company legitimately, and in course of fair business dealing, built up and recruited by its distributing district agents, a selling agency of schoolboys, the whole efficiency of which consisted in undivided loyalty and single-hearted service, primarily of the district agents and secondarily, of the boys, to that company. The whole situation was unique. This was not a case of commerce in the ordinary channels of salesmanship. The Curtis Company, by the personal work of their distributing agents, selected boys of tender years, whose work and business was school work, whose time was limited and whose capacity of salesmanship was restricted to a magazine that sold for five or ten cents, and to a sale of approximately not exceeding fifty copies. Had the magazine been one that sold for twenty-five or thirty cents, it is quite evident the boys could not have sold it. Were they to try to sell more than fifty, it would be at the expense of their school duties, their playtime and the wishes of their parents. There can be no doubt under the proofs, that the Curtis Company in building up this boy selling organization through the distributing district agents, was not throttling or indeed dealing with the ordinary channels of commerce, but was enlarging the sphere of

commerce by enlisting in its service the selling power of schoolboys, who but for this organization, would not only not have taken in present commerce but who would have missed the commercial training the Curtis Company alone gave them for future commerce, and the Pictorial Company and the Crowell Company had no hand in giving them, and indeed it seems to us that these companies will, if this injunction here complained of was enforced, succeed in really throttling commerce by disrupting and destroying an efficient agency which is extending commerce. Moreover, it is clear that these companies, as well as other publishers, already have full, unrestricted, circulation agencies. The proofs show that the American News Company still continues its general business of distributing the publications of all publishers who choose to use its service; that there are upwards of four hundred different magazines which are distributed and circulated solely through its agency, and the United States mail, and that its service reaches every retailer of magazines in the United States. In that regard the proof of the scope of the distribution facilities of the News Company and of their being open to and used by the particular competitors of the respondent, toward whom they are alleged, in this proceeding, to have used unfair business competition by the contract in question, and that the retailers to whom the contract forbids its distributing agents to furnish other magazines, can be, and in fact are, furnished with all other magazines including the magazines of the complaining competitors of the Curtis Company by the American News Company service. All this is shown by the proofs of the Government, in the testimony of witnesses, among

whom we quote from Thomas H. Beck, of the Crowell Company, a complaining competitor (p. 106):

"Q. Will you now describe how the distribution of magazines is made through the American News Company—how do they operate?

"A. We supply our publications to them and they distribute them through their branches and their branches re-distribute to retail newsdealers. They cover the entire country with that service.

* * * * * *

"Q. Have you been able to reach all the retail dealers through the agency of the American News Company?

"A. Yes; we can reach all the retail newsdealers through the American News Company. We can reach them—in other words, you can ship to them, because if their location and address are known, you can make the shipments.

* * * * * *

"Q. Now, you have not depended on the American News Company entirely as a matter of getting your magazines to the people?

"A. Yes, sir; in the matter of single copy sales, we practically depend on them."

The proofs further show that through these retailers they reach the boy salesmen who get their supplies from these retailers. In that regard, the same witness, speaking of the retailer, says (p. 119): "He gets the Star Edition for sale over his own counter and gets the Boy Edition for sale to the boys. Q. Do you know of any place or locality where a retailer could not get, through the American News Company, the

Star Edition of the magazine you refer to, and your other magazines? A. I do not."

To the same effect is the testimony of B. A. Mackinnon, Circulation Director of The Pictorial Review, a magazine published by the Pictorial Company. Mr. Mackinnon's testimony was (p. 269) "Q. Is it not possible for any retail dealer in any part of the United States to get copies of your magazines through the American News Company, for sale? A. Yes, sir. Q. And it has always been so; is not this the fact? A. As far as I know, yes, sir."

It will thus be seen that the retail dealers in every part of the United States were reached for many years by the Curtis Company and its competitors, and that this service and method of reaching the retailer's customer and of the dealer selling to boy salesmen is now open to and used by the competitors of the Curtis magazines. From this it will be seen that when the Curtis Company, by clause 13, kept its distributing agents from "wholesaling to * * * dealer * * * any periodical other than those published by the Curtis Company * * * without first obtaining the approval of the publishers," they did not prevent or hinder such retailer from getting the publications of these other publishers through the American News Company.

It will also be seen that in dealing with the magazine business, we are not dealing with anything that has been made the subject of monopoly, sole supply, or by deprivation of which the public has been deprived of anything it desires. There is no suggestion in the arguments or proofs in the record that any person who desires any one of the four hundred magazines of the country, including these competiting magazines, cannot readily get such magazines from any retailer to

whom he applies in person, have it regularly delivered to him by a boy salesman who deals with such retailer or directly from the publisher through the mails. Indeed, the latter agency is the customary one by which we usually get our magazines. We note these facts because this freedom of access to the consumer and the entire absence of monopoly and non-deprivation of the public, have been regarded as an important element in the decision of cases of alleged unfair business competition. Thus in *Ford* vs. *Boone,* 244 Fed. Rep. 341, the Circuit Court of Appeals of the Ninth Circuit, says: "It is to be borne in mind that the plaintiff has no monopoly of the automobile business, but only of one out of almost innumerable kinds of cars, all differing in detail one from the other, but of the same general type and all designed to be used in the same general manner, and for the same general purpose. If, as was admitted to be the fact in the *Motion Picture Patents Company* case, the plaintiff's car were wholly indispensable to the carrying on of a great industry, and if its plan of marketing were such as to constitute an instrument of oppression or favoritism, then the courts should perhaps be astute to discover means by which to disorganize its system and to encourage competitive effort as between the salesmen or distributors of its product; but such is not the case." Indeed, there is no proof in this record that any harm has been done in the past by the business methods followed by the Curtis Company, nor is there any proof that commerce has been in any way throttled thereby. By this order of the Commission, an injunction is now issued which, whatever may be said to the contrary, disrupts and forbids continuation of a business course openly pursued for years and takes away, without compensation, the

asset of good will which cannot be bought with money but which is the result of years of personal service and loyalty. Injunction is so drastic and prohibitive a remedy, its issuance by a Court of Equity so carefully safeguarded, that to have substantial question of the wisdom of such issue often suffices to withhold. To doubt is to decide and this well-founded principle of equity in itself would lead a Court of original jurisdiction to deny the strong arm of injunctive relief. But in this case, the foundation of our order is, not doubt, but certainty; for accepting in their entirety and finality all facts found by the Commission, but taking the whole record and the proofs on which the Commission has made no finding, we are satisfied, as the statute provides "upon the pleadings, testimony and proceedings set forth in the transcript" the charge of unfair methods of competition could not be legally adjudged. If this was a case where a trial Court had submitted these proofs to a jury from which to find a verdict of unfair business competition, a reviewing Court would be constrained to set such verdict aside as not having testimony to support it. In passing this Act and granting to a Commission power in a new and untested field, to issue injunctions which should stop and prohibit commerce, we are of opinion that Congress in invoking the reviewing supervision of Federal Courts, experienced in review, meant that those Courts should exercise that reviewing power as they had been accustomed to do it theretofore.

So viewing the statute and so examining the whole record, we consider it the duty of this Court to make effective the power of "setting aside the order of the commission" which Congress so enacted.

Let a proper Decree be drawn.